

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF TEXAS  
3                   SAN ANTONIO DIVISION

4                   JOE HOLCOMBE, ET AL.,                   .  
5                   vs.    .  
6                   UNITED STATES OF AMERICA,           .  
7                   PLAINTIFFS,                              .  
8                   DEFENDANT.                                .  
9

10                  TRANSCRIPT OF BENCH TRIAL PROCEEDINGS  
11                  BEFORE THE HONORABLE XAVIER RODRIGUEZ  
12                  UNITED STATES DISTRICT JUDGE  
13                  APRIL 7, 2021

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22 OFFICIAL COURT REPORTERS  
23 UNITED STATES DISTRICT COURT  
24 SAN ANTONIO, TEXAS

(San Antonio, Texas; April 7, 2021, at 9:00 a.m., in open court.)

THE COURT: The Court calls 18 civil 555, and all related cause numbers in the consolidated action, Holcombe and others versus the United States.

6 Before I announce for appearances, this is a first  
7 for us, that we'll be broadcasting by Zoom to certain parties  
8 because of the COVID pandemic. All counsel, parties,  
9 witnesses, participants, and members of the public are  
10 reminded that this is a formal proceeding, and that they  
11 should behave at all times, as if they were present in the  
12 courtroom. The standing order of the San Antonio Division of  
13 the Western District of Texas on remote access to court  
14 proceedings remains in effect.

15 Photography, recording, or streaming of this  
16 proceeding, by any means, is strictly prohibited. Though this  
17 proceeding is open to the public, technological restraints  
18 require that members of the general public request access from  
19 the courtroom deputy to participate remotely. Those granted  
20 approval to participate remotely, must not forward the  
21 electronic link to nonparticipating colleagues or persons, and  
22 must not post the link on any public forum.

As with all proceedings, violations of these instructions are subject to contempt proceedings.

25 Accordingly, please exercise proper decorum at all times.

1 With that, let me get appearances, please.

2 On behalf of the plaintiffs' group, who is lead  
3 counsel?

4 MR. ALSAFFAR: Good morning, Your Honor. Jamal  
5 Alsaffar for the plaintiffs.

6 THE COURT: Thank you. Would you like to introduce  
7 who is at table?

8 MR. ALSAFFAR: I would, Your Honor. Jason Webster.

9 THE COURT: Thank you.

10 And for the government?

11 MR. STERN: Good morning, Your Honor. Paul Stern on  
12 behalf of the United States.

13 THE COURT: And who do you have at table?

14 MR. STERN: With me, Jacquelyn Christilles, Jocelyn  
15 Krieger, and Clayton Diedrichs.

16 THE COURT: Let's take care of some housekeeping  
17 matters first. Thank you to all the parties for working  
18 collaboratively on trying to organization the exhibits in this  
19 very complex case. I received this morning, I think it was  
20 filed late last night, the third amended trial exhibit list,  
21 and that's the document I'm working from; is that correct?

22 MR. ALSAFFAR: I believe -- I believe that's correct,  
23 Your Honor. Yes, we were going through -- it's the third  
24 amended trial exhibit list.

25 THE COURT: Thank you. And the government agrees.

1           So with that, there are no objections to the joint  
2 exhibits. Joint Exhibits Nos. 1 through 803 listed on that  
3 third amended exhibit list are admitted.

4           (Joint Exhibits 1 through 803 received into evidence.)

5           THE COURT: There is a slight confusion, and it's the  
6 Court's fault, with the plaintiff's exhibit list and the  
7 government exhibit list. The copy I've been printed out with  
8 has no objections whatsoever. If I go to the CM/ECF, though,  
9 there is, and so I'm not sure how they've got script. I'm  
10 going to have to reprint from the third amended that you-all  
11 just filed and figure out what is unobjectionable. And so I'll  
12 make those rulings at the next break.

13           All parties have agreed to waive opening statements,  
14 and we will have closing arguments at the end of this  
15 liability phase, and so with that, I recognize the plaintiff's  
16 first witness.

17           MR. ALSAFFAR: Your Honor, before we begin, I have  
18 a -- I do have a list of unobjectionable plaintiff's exhibits  
19 that I would -- I would like to offer and I can give you that  
20 right now, and then we can see if we can go through and manage  
21 the rest of them, if that's okay, Your Honor.

22           THE COURT: That's fine. Are what do you believe is  
23 unobjectionable to?

24           MR. ALSAFFAR: We would like to offer at this time  
25 Plaintiffs' Exhibits 751.

1 THE COURT: Go slow. Hold on.

2 MR. ALSAFFAR: Yes, Your Honor.

3 THE COURT: 751, okay.

4 MR. ALSAFFAR: Plaintiffs' Exhibit 752.

5 THE COURT: Go ahead.

6 MR. ALSAFFAR: Plaintiffs' Exhibit 793.

7 THE COURT: Go ahead.

8 MR. ALSAFFAR: Plaintiffs' Exhibit 796A. And  
9 Plaintiffs' Exhibit 800, which is the summary of key  
10 documents, all of which are joint exhibits.

11 THE COURT: Any objections to 751, 752, 793, 796A?

12 MR. ALSAFFAR: Your Honor, on 796, that's A through  
13 AA.

14 THE COURT: Oh. The whole series?

15 MR. ALSAFFAR: Yes, Your Honor. Those are the Form  
16 95s.

17 THE COURT: The 796 series and then 800.

18 Any objections from the government?

19 MR. STERN: Your Honor, with regards to 751, there's  
20 no objection.

21 THE COURT: That's admitted.

22 (Plaintiffs' Exhibit 751 received into evidence.)

23 MR. STERN: With regards to 752, there is no  
24 objection.

25 THE COURT: That's admitted.

1                             (Plaintiffs' 752 received into evidence.)

2                             THE COURT: 793 is the next.

3                             MR. STERN: With regards to 793, we do object because  
4 these were given to us at a late date, well after discovery  
5 had closed. We're not -- we're not familiar with how the  
6 plaintiffs got -- obtained these and why they produced them so  
7 late in discovery. We're willing to have that conversation,  
8 but given the late date that these were produced, we couldn't  
9 just simply acquiesce to their request.

10                          With regards to 796, these are the SF95 Forms, and at  
11 this stage of the trial we don't believe that they are  
12 appropriate for -- as exhibits in this liability phase. While  
13 we don't contest certain SF95s were submitted by certain  
14 plaintiffs, we haven't gone through and checked the bona fides  
15 of the substance of each of these SF95s.

16                          So to the extent that they are trying to identify  
17 each plaintiff having standing in this case, that's not an  
18 issue for liability phase. That would be an issue for if we  
19 get to a damages portion in this trial. With regards to 800,  
20 we don't object to their key documents, insofar as they are  
21 joint exhibits. Now, United States also has its binder of key  
22 documents ready for Your Honor as well.

23                          THE COURT: 800 is admitted.

24                          (Plaintiffs' Exhibit 800 received into evidence.)

25                          THE COURT: Your response to 793?

1                   MR. ALSAFFAR: Your Honor, just so you know what  
2 these are. This is actually the Texas Rangers Attorney  
3 General file from that file that the government produced, and  
4 it contains pictures of the home of Devin Kelley and Danielle  
5 Kelley. And we were -- when we were scrubbing the file, it's  
6 a 70,000-document file, the Texas Rangers references those  
7 photos but; did not produce them.

8                   We asked the government, do y'all have them. Y'all  
9 are supposed to produce them as part of the file. They didn't  
10 have them. So the Attorney General and Texas Rangers produced  
11 them to us a couple weeks ago. The same day, we produced them  
12 to the government.

13                  THE COURT: So the government has seen them prior to  
14 today?

15                  MR. ALSAFFAR: Oh, yes, Your Honor. We pointed them  
16 out and we have shown it to them.

17                  THE COURT: 793 is admitted.

18                  (Plaintiffs' Exhibit 793 received into evidence.)

19                  THE COURT: The 796 series?

20                  MR. ALSAFFAR: Your Honor, as far as the -- as far as  
21 the 796 series, the Form 95s are in part -- there are two  
22 parts to them. Of course, there is the jurisdictional part  
23 and then the damages part, in terms of plaintiffs' addendum  
24 clause, so it is related to the liability phase because it  
25 deals with jurisdictional issues and standing. And the

1 government concedes that they don't object to that, so it  
2 makes sense to admit them in the liability phase as well.

3 THE COURT: So this is a bench trial and not to a  
4 jury, so I know how to make the distinction between the two  
5 phases. The 796 series, 796A through AA are admitted.

6 (Plaintiffs' Exhibits 796A through AA received into  
7 evidence.)

8 THE COURT: Anything else by housekeeping?

9 MR. STERN: Your Honor?

10 THE COURT: Yes.

11 MR. STERN: Obviously, we don't object to that  
12 ruling. We just want to make sure for the record that we  
13 reserve any right to contest anything contained within the SF  
14 95s in the damages phase, if necessary.

15 THE COURT: You have that right.

16 MR. STERN: Thank you, sir.

17 THE COURT: Anything else by way of housekeeping?

18 MR. ALSAFFAR: One more thing, Your Honor, we wanted  
19 to -- to move for the admission of the deposition transcripts  
20 that have already been filed and that were reviewed by the --  
21 by the Court. Those transcripts are Plaintiffs' Exhibit 87  
22 through Plaintiffs' Exhibit 109 and 109A, the plaintiffs'  
23 side. We would like to offer those now, Your Honor.

24 THE COURT: Any objections to 87 through 109A?

25 MR. STERN: No objection, insofar as the government

1 also offers its deposition designations, those participating  
2 in trial through deposition, as well as its objections and  
3 counter-designations to plaintiffs' designations.

4 THE COURT: With that, 87 and going forward through  
5 109A are admitted.

6 (Plaintiffs' Exhibits 87 through 109A received into  
7 evidence.)

8 THE COURT: We can either do it at another break or  
9 we can do it before the government's case in chief, I'll admit  
10 your numbers when we get to them.

11 MR. STERN: Your Honor --

12 THE COURT: Anything else by housekeeping?

13 MR. ALSAFFAR: No, Your Honor. We do have the -- you  
14 requested the key document binder. We do have one for the  
15 Court.

16 THE COURT: Thank you. I'll take that.

17 MR. ALSAFFAR: Your Honor, we also have the witness  
18 exhibit binder. Can I offer that to you as well?

19 THE COURT: So the witness binder will just go there  
20 at the witness stand.

21 MR. STERN: Government's as well, Your Honor?

22 THE COURT: Yes. Thank you.

23 Anything else by way of housekeeping?

24 MR. ALSAFFAR: No, Your Honor.

25 THE COURT: Mr. Stern?

1                   MR. STERN: Just a very minor point and that is a lot  
2 of documents and material were produced subject to protective  
3 orders and confidentiality agreements in this case, and as a  
4 result they were not redacted before being produced. I think  
5 it's fair to say that both parties have worked very diligently  
6 this week in trying to redact as much PII as possible. I  
7 think we came to a meeting of the minds regarding the vast  
8 majority of it. However, I just ask for the Court's patience.  
9 Heaven forbid, we actually publish an exhibit that shows some  
10 PII, we will try to take it down immediately, redact on the  
11 fly. We just want to make sure you are aware of that, Your  
12 Honor.

13                  THE COURT: Thank you. So, yeah. If any exhibits  
14 get shown that have PII, we will just go ahead and do it now,  
15 and we will allow the exhibit to be shown. But when it comes  
16 time to actually entering it into the court record, then I'll  
17 allow redactions to be made even post-trial.

18                  MR. STERN: Thank you, sir.

19                  THE COURT: Anything else?

20                  MR. ALSAFFAR: There is one more matter and it  
21 relates to the government's summary exhibit that they just  
22 handed the Court. There are documents in there that are  
23 objectionable. Most of them are joint exhibits, and we do not  
24 object to those. There are about 13 or 14 that are  
25 objectionable, and I don't know since the Court -- since the

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1 government handed them to you now whether we should deal with  
2 those now or...

3 THE COURT: So yeah, those are just -- the binders  
4 are just assistance to the Court. I'm only going to review  
5 what's actually been admitted into -- into this proceeding.

6 MR. ALSAFFAR: We have no more matters, Your Honor.

7 THE COURT: And with that, then your first witness.

8 MR. WEBSTER: Your Honor, plaintiff calls as our  
9 first witness Danielle Smith.

10 (DANIELLE SMITH, having been duly sworn, testified as  
11 follows:)

12 MR. WEBSTER: May I proceed, Your Honor?

13 THE COURT: Yes.

14 DIRECT EXAMINATION

15 BY MR. WEBSTER:

16 Q. Good morning, Ms. Smith.

17 Could you please introduce yourself to the judge?

18 A. Hi. My name is Danielle Smith.

19 Q. Ms. Smith my name is Jason Webster and we have met on a  
20 couple of different occasions prior to your testimony here  
21 today; is that correct?

22 A. Correct.

23 Q. And those two times were the times that we met in the  
24 public library to discuss -- kind of informally -- to discuss  
25 what you knew about this case and various issues, but then

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1 there was also the time we met during your deposition; is that  
2 correct?

3 A. Correct.

4 Q. And you kind of understand how this -- I have not talked  
5 to you since your deposition; is that true?

6 A. True.

7 Q. And would you agree with me today that I'm going to be  
8 asking you some tough questions, that if you need to take a  
9 break at any time, will you let me know, and I'll be happy to  
10 do so?

11 A. Yes.

12 Q. Now, I want to start, Danielle -- is it okay if I call you  
13 Danielle?

14 A. Yes.

15 Q. I want to start, Danielle, with -- to talk about, kind of,  
16 your childhood, so that the Court gets a sense, the judge gets  
17 a sense of kind of the person -- who you are, and what you've  
18 been through; is that okay?

19 A. Okay.

20 Q. And it's going to be very general; okay. First off,  
21 Danielle, when is your birthday and how old are you as you sit  
22 here today?

23 A. My birthday is February 12 of '95, and I am 26 years old.

24 Q. And where -- Danielle, where were you born?

25 A. San Antonio.

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1 Q. And can you tell -- you know, can you tell the judge a  
2 little bit about your childhood when you were with your birth  
3 parents what happened?

4 A. They physically abused me and burned me.

5 Q. I've seen notes that you were burned about 80 percent of  
6 your body; is that true?

7 A. Correct.

8 Q. And as a result of that abuse, what happened?

9 A. I got taken away from them, and I ended up getting a  
10 settlement when I was 18.

11 Q. Okay. And when you were taken away from them, I would  
12 assume that was through Child Protective Services?

13 A. Correct.

14 Q. And where were you placed after that?

15 A. I was placed into CPS.

16 Q. And about approximately how old were you when you were  
17 placed in Child Protective Services?

18 A. Three.

19 Q. So when you were three -- when were you three, were you  
20 placed in some foster homes?

21 A. Yes.

22 Q. About how many foster homes did you go to prior to being  
23 adopted?

24 A. I think it was one, but it could have been more. I just  
25 don't remember how many.

DANIELLE SMITH - DIRECT

1 Q. You were pretty young at that point in time; right?

2 A. Yes.

3 Q. Now, when you were -- you were eventually adopted; is that  
4 true?

5 A. Correct.

6 Q. Who -- can you tell the judge, who adopted you?

7 A. Michelle Shields, and at the time she was married to Kurt  
8 Brassfield.

9 Q. About what approximate age were you adopted by them,  
10 Danielle?

11 A. I would have been four.

12 Q. Four years old?

13 A. Yes.

14 Q. And how long did you live with Michelle Brassfield at the  
15 time and Kurt Brassfield?

16 A. Before they got divorced?

17 Q. Yes, ma'am.

18 A. I guess it would have been around when I was 9 or 10 years  
19 old.

20 Q. And during that time, you had another bad experience with  
21 Kurt Brassfield; is that true?

22 A. Yes.

23 Q. And just real -- just briefly, Mr. Brassfield sexually  
24 abused you; correct?

25 A. Yes.

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1 Q. And this went on for a period of years; true?

2 A. Yes.

3 Q. And, in fact, Mr. Brassfield is -- because of -- partly  
4 because of your testimony is actually in prison for that; is  
5 that true?

6 A. Yes, he got 50 years.

7 Q. Now, during that time, I think you testified also that --  
8 or during that time, was Mr. Brassfield and Michelle divorced;  
9 is that true?

10 A. Yes, they got divorced around nine or ten.

11 Q. And did you -- and he married someone else later?

12 A. Yes.

13 Q. And who did he marry?

14 A. Erin Higgins.

15 Q. And do you consider both Erin Higgins and Michelle to be  
16 your mothers?

17 A. Yes.

18 Q. Did you become very close to Erin during those years?

19 A. Yes.

20 Q. Are you still close to her today?

21 A. Yes.

22 Q. Are you still close to your adopted mother, Ms. Shields?

23 A. Yes.

24 Q. Now, you -- during the time that you were living with  
25 Mr. Brassfield, did you ever tell anyone about the abuse you

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1 were suffering?

2 A. It wasn't until I was older when they were getting a  
3 divorce.

4 Q. And you came out and told them -- who all did you come out  
5 to at that point in time and tell about the abuse?

6 A. I told Michelle and I told the school.

7 Q. And what was their reaction to when you told them that.  
8 First off, let's split it up. What was Michelle's reaction  
9 when she told you that -- when you told her that?

10 A. She took me down to talk with the police.

11 Q. And how did the police treat you while you were there?

12 A. They said I was lying.

13 Q. And so they did not take your statements or what you had  
14 accused him of as seriously; true?

15 A. True. She took me to two different police departments:  
16 one in Cibolo and one in Wilson County.

17 Q. Was that pretty -- was that pretty upsetting to you that  
18 they did not believe you?

19 A. Yes, they said I was just promiscuous.

20 Q. During the times -- so after that, what happened with your  
21 relationship as it related to Kurt Brassfield, was he still  
22 around?

23 A. Yes.

24 Q. And did -- even after you cried out, did the abuse  
25 continue?

DANIELLE SMITH - DIRECT

1 A. Yes.

2 Q. And how much longer did the abuse continue?

3 A. It continued a lot longer.

4 Q. And you had to testify in trial against Mr. Brassfield  
5 about that abuse; correct?

6 A. Yes.

7 Q. And I think you stated earlier he was convicted as a  
8 result of that; is that true?

9 A. Correct.

10 Q. Now, let's -- moving on for just a minute.

11 Let's talk about Devin Kelley. All right?

12 A. Okay.

13 Q. Where did you first meet Devin Kelley?

14 A. I met him when I was 13.

15 Q. And can you tell the Court a little bit about maybe where  
16 y'all were at and what you were doing when you met him?

17 A. We were with mutual friends.

18 Q. And can you tell us about what happened during that  
19 exchange?

20 A. He was 17 and I was 13, and he was just very -- I don't  
21 know. Just pushed himself onto me.

22 Q. And when you say, "pushed himself onto you," he was -- he  
23 tried to -- he called you a lot, texted you a lot?

24 What types of things did he do?

25 A. He'd call me constantly. Messaged constantly. Every time

DANIELLE SMITH - DIRECT

1 I was visiting my mother Erin, he would try and hang out with  
2 me.

3 Q. Okay. And how often would you see him? I think you said  
4 you were approximately 13.

5 How often would you see him personally?

6 A. Every -- almost every weekend I was with Erin.

7 Q. And so did he live close to there?

8 A. He lived in New Braunfels.

9 Q. All right. Did he live in the same house that we're going  
10 to talk about later that you lived in -- that they lived in  
11 out of town, out in the country?

12 A. Yes.

13 Q. Okay. And so how would -- how would you -- when you  
14 were -- when you would be Erin's house on the weekends, how  
15 would you actually see -- would he come over? How would you  
16 see him?

17 A. He would drive over, and I would have to go out and meet  
18 him.

19 Q. How long did you -- did you talk to Devin or have a  
20 relationship with Devin during that period of time?

21 A. Until he joined the military, and then it was a little bit  
22 after the military. When he was in there, he would call and  
23 tell me some stuff from when he was in the military.

24 Q. So he went off at some point, and joined the military, and  
25 y'all kind of parted ways, although you did talk a little bit

DANIELLE SMITH - DIRECT

1 while he was in the Air Force; is that true?

2 A. Yes.

3 Q. Now, you did have a sexual relationship with him at this  
4 time; is that true?

5 A. Yes.

6 Q. And I think that you talked about you had gotten pretty  
7 close to Devin during that period of time; is that correct?

8 A. Yes.

9 Q. And was Devin an outlet for you at that point?

10 A. Yes.

11 Q. Can you tell the Court why he was an outlet? What was  
12 going on in the relationship?

13 A. I could just talk to him about stuff and tell him about  
14 things in the home.

15 Q. And even at that point in time, did he know what was going  
16 on with Kurt Brassfield?

17 A. He knew some of it.

18 Q. Did he know that Mr. Brassfield was inappropriate with  
19 you?

20 A. Sometimes, yes.

21 Q. And while you may not have told him everything that had  
22 gone on, but you did tell him some things, so he knew this as  
23 early as when you were 13 years old; correct?

24 A. Yes.

25 Q. Now, Devin went off to the Air Force, and I believe -- did

DANIELLE SMITH - DIRECT

1 he -- he tried to contact you a couple times while he was in  
2 the Air Force; is that true?

3 A. Yes.

4 Q. And what types of things would Devin tell you while he was  
5 in the Air Force?

6 A. That he was married and then that's when I told him I  
7 didn't want to talk to him anymore and he kept calling and  
8 calling and he was just saying how he thought his wife was  
9 cheating on him.

10 Q. Did he ever -- did you ever know anything about -- about  
11 his -- can you tell the Court what you knew about Devin's time  
12 in the Air Force at any time?

13 A. That he said he just had a hard time.

14 Q. Okay. Did he ever tell you at any point in time while he  
15 was in the Air Force and in jail that -- what he had been  
16 convicted of?

17 A. No.

18 Q. Did he ever tell you that he had -- that he had been  
19 convicted of any type of felony which would prohibit him from  
20 owning a weapon?

21 A. No.

22 Q. When you were talking to Devin, did he tell you why he  
23 would -- let me rephrase the question, I apologize.

24 When Devin would call you, he called you while he was  
25 still working in the Air Force; is that true?

DANIELLE SMITH - DIRECT

1 A. Yes, and when he was locked up in the brig.

2 Q. And so how often would he call you on a regular basis  
3 during the week?

4 A. Whenever he got phone privileges when he was locked up.

5 Q. Was that a certain day of the week, or...

6 A. It ranged, but most of the time, I think it was on a  
7 weekend.

8 Q. Okay. And so the -- so while he was in the brig on  
9 weekends, he would give you a call?

10 A. Yes.

11 Q. And what are the types of things y'all would talk about  
12 during those conversations?

13 A. Oh, he would just ask how I was doing, and ask how he was  
14 doing. There was nothing, you know, inappropriate.

15 Q. Okay. And you had told him that as long as he was  
16 married, you did not want to see him; correct?

17 A. Correct.

18 Q. At some point in time, did he ever tell you during those  
19 conversations why he was in the brig?

20 A. No. He said --

21 (Reporter Clarification.)

22 Q. Can you repeat the last answer, please?

23 A. He said he would tell me why he got locked up when he got  
24 out.

25 Q. So that was a discussion y'all did not have during those

DANIELLE SMITH - DIRECT

1 times?

2 A. Yes.

3 Q. Now, at some point in time, Mr. Kelley got out of the --  
4 got out of the Air Force, along with the brig, and then he was  
5 subsequently discharged from the Air Force; correct?

6 A. Yes.

7 Q. And how long was it before when he was discharged from the  
8 Air Force to the time that you had heard from him?

9 A. I guess a couple months is when he came and saw me.

10 Q. And so when you say, "a couple months," did he call you  
11 when he got out of jail?

12 A. When he wanted to come and see me.

13 Q. Okay. Was that the first time you had heard from him in a  
14 while?

15 A. Yes.

16 Q. Okay. And when he -- and when came -- came -- tell the  
17 Court about that.

18 What happened when he got out of -- when he got out of  
19 jail and he came to see you? What happened next?

20 THE COURT: Let me stop you here. Can you give me a  
21 date? About -- what time are we in now?

22 THE WITNESS: It would have been back when I was 18,  
23 so I think 2013.

24 THE COURT: Thank you.

25

DANIELLE SMITH - DIRECT

1 BY MR. WEBSTER:

2 Q. So around 2013, would have been the time that he would  
3 have -- did he drive down to Colorado to see you?

4 A. No, I wasn't in Colorado.

5 Q. Oh, I'm sorry. Did he drive down from Colorado to see  
6 you?

7 A. I don't think he was in Colorado when I was 18.

8 Q. Where was he living or residing at that time?

9 A. With his parents.

10 Q. So he -- at that point in time, Devin had moved back --  
11 Devin Kelley had moved back home with his parents?

12 A. Yes.

13 Q. And tell us about the first time that you -- that you saw  
14 him?

15 A. I said he looked old.

16 Q. And why did you tell him he looked old?

17 A. Because I remember him at 17, and he had a beard, so I  
18 thought he looked old.

19 Q. Did he ask you out on a date at that point?

20 A. He did, but I didn't want to see him like that until a  
21 couple months after.

22 Q. So when you say he came to see you, where was this at?

23 A. I was at Michelle's house.

24 Q. All right. And when you say, "Michelle," Michelle  
25 Shields; correct?

DANIELLE SMITH - DIRECT

1 A. Yes.

2 Q. All right. And so he came over to the house, and y'all  
3 talked for -- how long do you think you talked for?

4 A. Oh, like 30 minutes.

5 Q. And then you told him he looked old?

6 A. Yeah.

7 Q. And he left at that point?

8 A. Yes.

9 Q. Did he continue to talk to you or call you during that  
10 period of time?

11 A. Yes.

12 Q. And tell us what happened next.

13 Kind of give us a progression of what happened with your  
14 relationship in 2013 with Mr. Kelley?

15 A. He wouldn't leave me alone, and, finally, I said yes, so  
16 he can just stop calling me all the time.

17 Q. Was it almost impulsive calling what he was doing?

18 A. Yes. He would call and call and call.

19 MS. CHRISTILLES: Objection. Leading.

20 MR. STERN: I'll reask the question.

21 BY MR. WEBSTER:

22 Q. How would you characterize his calls during that period of  
23 time?

24 A. Um, like stalkers.

25 Q. Did that give you some concerns?

DANIELLE SMITH - DIRECT

1 A. I was 17, 18, I wasn't thinking.

2 Q. Okay. Were you flattered by his advances?

3 A. It was annoying.

4 Q. And so finally you agreed, and did y'all have a period of  
5 time when you and Devin Kelley were dating?

6 A. Yes.

7 Q. And during that time that you were dating, kind of tell --  
8 can you tell the Court how long you dated prior to when you  
9 got married and the types of things and things that went on?

10 A. When him and I got together -- I guess we got married  
11 April 4th of 2014. Before then, I was -- I don't know if we  
12 got pregnant, and then I ended up losing my baby. So not  
13 really much.

14 Q. Okay. Let's talk about that for a moment. So y'all were  
15 married on April 4th of 2014; is that correct?

16 A. Correct.

17 Q. And you did not have a very good home life still at that  
18 point in time; would you agree?

19 A. Yes.

20 Q. And so did Mr. Kelley kind of offer a solution to get out  
21 of that home life at that point?

22 A. He just said, you know, he would take care of me and so...

23 Q. Okay. Now, when he -- during that period of time, when he  
24 came to see you in 2013 and his marriage to you on April 4th,  
25 2014, I think you stated that you became pregnant; is that

DANIELLE SMITH - DIRECT

1 true?

2 A. Yes.

3 Q. Can you tell the Court what happened with regards to the  
4 circumstances surrounding your pregnancy?

5 A. I lost my baby.

6 Q. And, Danielle, can you tell -- I know it's hard, but could  
7 you please tell the judge why you lost your baby?

8 A. He kicked me in my stomach.

9 Q. Where did this happen at, Danielle?

10 A. At the Kelley's barndominium.

11 Q. Were you living there are at the barndominium at the time  
12 prior to your marriage?

13 A. Yes.

14 Q. When was the first time you suffered physical abuse at the  
15 hands of Devin Kelley?

16 A. When he kicked me in my stomach and I lost my first baby  
17 because he got mad at me.

18 Q. Now, I'd like to show you a picture from JEX0799-0012  
19 that's already admitted into evidence. It's going to pop up  
20 on your screen so you can see it.

21 A. Okay.

22 Q. Danielle, backing up for just a minute, when after you  
23 started dating Devin Kelley, did you move into the  
24 barndominium?

25 A. Around, I guess, Christmastime of 2013.

DANIELLE SMITH - DIRECT

1 Q. And prior to moving into with him, you had not suffered  
2 any type of abuse? He was still kind of courting you at that  
3 point; would you agree?

4 A. Yes.

5 Q. And so when you moved into the barndominium, is this a  
6 true and correct -- I mean, is this the barndominium y'all  
7 were living in?

8 A. Yes, it was.

9 Q. And immediately upon when you began dating Devin Kelley,  
10 did he seem very -- how would you characterize how he treated  
11 you? Was he possessive? Did he -- what types of traits did  
12 he exhibit?

13 A. At first, he wasn't -- he seemed normal until he got mad  
14 and kicked me in my stomach and, you know, promised to never  
15 do it again.

16 Q. And the Kelley property, so that the Court understands --  
17 let's go to JEX793 that's been previously admitted, Your  
18 Honor.

19 Can you see here on the map -- and you can go to the  
20 second page. This is, like, the Kelley residence at 2825 FM  
21 2722 in New Braunfels, Texas; is that correct?

22 A. Yes.

23 Q. And would you agree with me that it's a very isolated  
24 area?

25 A. Yes, it is.

DANIELLE SMITH - DIRECT

1 Q. And when I say that, meaning, there is not a lot --  
2 there's not a lot of neighbors and there is not very many  
3 houses around that area; is that true?

4 A. Correct.

5 Q. And who all lived out on the property in 2013, at  
6 Christmas in 2013, when you moved in there?

7 A. His mom and dad and I think his sister because I think she  
8 had like one more year of school.

9 Q. And so for a while, the sister lived there and then she  
10 moved out and went off to college or school or something;  
11 right?

12 A. Yes.

13 Q. And so if we go to the second page of this same exhibit  
14 which is -- yeah, here we go. That's it. Can you tell us  
15 here if we look at this, where was the barndominium that we  
16 saw in the picture earlier?

17 A. It would be the top little square over -- that one. No.  
18 Go down. Yes, that one.

19 Q. So this is where the barndominium would be?

20 A. Yes.

21 Q. And that's where you and Devin lived; correct?

22 A. Yes.

23 Q. If you screamed from the barndominium, going back to the  
24 map, could the Kelley's hear you over at their house?

25 A. No.

DANIELLE SMITH - DIRECT

1 Q. And the other building that you see to the right, the  
2 larger building at the top, what is that?

3 A. That's the stables.

4 Q. And at any time, how often would you actually go into the  
5 Kelley's residence, the main house there?

6 A. During that time, not often, unless it was for a family  
7 dinner.

8 Q. So you were basically -- you were quartered off from the  
9 area and not able -- you didn't frequently go to the Kelley's  
10 house at any time during the time you were married to Devin  
11 Kelley; is that true?

12 MS. CHRISTILLES: Objection. Mischaracterization.

13 She said she would go --

14 THE COURT: We have to wait for her answer. That's  
15 overruled. Go ahead.

16 THE WITNESS: Yeah. I'd go for family dinners, and I  
17 wasn't allowed to go without him.

18 BY MR. WEBSTER:

19 Q. Meaning, you didn't go over -- you weren't allowed to go  
20 over and talk to Mr. and Mrs. Kelley unless you had his  
21 permission?

22 A. Yes, he had to be present.

23 Q. And so what other types of things when you moved in -- did  
24 Devin become very controlling?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. Can you tell the Court in what ways Mr. Kelley became  
2 controlling of you during that time?

3 A. After the marriage, he started getting to where I wasn't  
4 allowed to have friends. He told me what to wear. How I  
5 should wear it. I should wear makeup. I wasn't allowed to  
6 look at people.

7 Q. Did he allow you to have social friends or go out on a  
8 girls night?

9 A. No, I was forbidden.

10 Q. And did -- and would you agree with me, you really had no  
11 social network of support; is that true?

12 A. Correct. He cut everybody off from me.

13 Q. And Devin as of the same -- Devin Kelley, the times that  
14 you knew him from 2013 until -- until November 5th, he had no  
15 close -- would you -- how would you characterize his social  
16 network of friends?

17 A. They were very, very small.

18 Q. Okay.

19 A. To like maybe less than three.

20 Q. And did he talk to those friends very often?

21 A. Closer to the shooting, he had a friend named David that  
22 we would go and see.

23 Q. Okay. But as in having -- he was not a very -- how would  
24 you characterize his social characteristics? He was not a  
25 very social person; was he?

DANIELLE SMITH - DIRECT

1 A. No.

2 Q. And, in fact, he did not get along with others very well;  
3 did he?

4 A. No, he didn't.

5 Q. Did he tell you -- can you tell the Court, how did  
6 Devin -- how did Devin look, did he have any -- did he like to  
7 deal with law enforcement?

8 A. No.

9 Q. Why?

10 A. He said that he was never going back to jail, that he  
11 would die before he went to jail.

12 THE COURT: Counsel, let me interrupt here.

13 So I see that Colonel Younger is present, watching  
14 these proceedings. The rule has been invoked.

15 Is Colonel Younger...

16 MR. ALSAFFAR: He's a retained plaintiffs' expert.

17 THE COURT: So he's been excused from the rule?

18 MR. ALSAFFAR: Yes, Your Honor.

19 THE COURT: Thank you. You may continue.

20 MR. WEBSTER: Thank you, Your Honor.

21 BY MR. WEBSTER:

22 Q. I need to go back for a minute. You said earlier, he  
23 actually kicked you in the stomach, correct, and you lost your  
24 baby?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. And -- and tell the Court why you decided to stay at that  
2 point?

3 A. I had nowhere to go and I was stuck.

4 MR. WEBSTER: Sorry, Your Honor. I had the page  
5 marked and it must have fell off. One second.

6 BY MR. WEBSTER:

7 Q. Can you please go to JEX00799-0058. It's been previously  
8 admitted, Your Honor.

9 Now, Miss -- this is a picture from inside -- from inside  
10 the barndominium apartment. Do you recall that, ma'am?

11 A. Yes.

12 Q. I think you were talking about how he kicked you in the  
13 stomach at that point in time.

14 Is this the area where that would have happened?

15 A. Yes.

16 Q. Can you tell the Court -- do you see here where you have  
17 the Coca-Cola -- the Coca-Cola cardboard box here taped up  
18 against the wall. Why is that there?

19 A. That was just -- there was a hole that nobody could fix.

20 Q. How did that hole get there?

21 A. This hole was always there, but he kicked another hole in  
22 the kitchen. It was underneath the sink. There is -- after  
23 we were married. He got mad at me because I was looking at  
24 people and he said that I was a whore and he threw me down and  
25 started kicked me and I moved.

DANIELLE SMITH - DIRECT

1 Q. What types of abuse did you suffer at the hands of Devin  
2 Kelley? Can you tell the Court what types of things he did to  
3 you?

4 A. He would choke me and make me beg for my life. He would  
5 pull me around by my hair. He would punch me; kick me in my  
6 back. He would grab my face and throw me down. He would take  
7 the butts of his guns and hit me and say that I was nothing to  
8 him, and then he would force me to do things that I didn't  
9 want to do.

10 Q. Did he threaten to kill you?

11 A. Yes, repeatedly.

12 Q. Did he threaten -- did he ever threaten to kill your  
13 family?

14 A. Yes. He said if I ever left him, I would have to pay for  
15 it. That the only way of leaving this marriage was one of us  
16 was going to end up in a body bag.

17 Q. And this barndominium that you lived in, it was very, very  
18 close quarters; correct?

19 A. Yes.

20 Q. And when we say that -- if we go to -- we'll start at  
21 JEX0019 -- 799-0019, please.

22 Danielle, I know you haven't seen these, but these are  
23 photos from the Texas Rangers right after this happened; okay?

24 A. Yeah.

25 Q. So this would have been your -- that would have been

DANIELLE SMITH - DIRECT

1 y'all's bed here on the right; is that right?

2 A. Yes.

3 Q. And this is -- the carriage that you have here, that would  
4 have been where you would have -- where your baby daughter was  
5 staying at during the night; right?

6 A. Yes.

7 Q. And then you have the couch and you have the table there;  
8 true?

9 A. Yes.

10 Q. And we can go to the next page, 0020. And here you can  
11 see -- well, you can point out to us. This would have been  
12 the baby bed on the left where your son Michael would have  
13 slept; true?

14 A. Yes.

15 Q. And then you have a kitchen and a bathroom; is that  
16 correct?

17 A. Yes.

18 Q. And kind of -- it looks like there was a little bit of  
19 closet space. Was there a closet in here?

20 A. Yes. It was over by the bed. Like, up when you first  
21 entered the doors, on that wall.

22 Q. Okay. So when you were -- when y'all moved into this  
23 barndominium in 2013, y'all would -- this was the close  
24 quarters that you were in. And so anytime that he was  
25 slapping or kicking you or hitting you, were your kids able to

DANIELLE SMITH - DIRECT

1 see that?

2 A. Yes.

3 Q. Now, going back for just a minute, y'all moved in there in  
4 2013, but at times, you moved around, across -- back and forth  
5 from Colorado; correct?

6 A. Yes.

7 Q. And can you tell the judge when -- in 2013, how long did  
8 you live in this barndominium before you went off to Colorado?

9 A. We were in the barndominium until June when we went down  
10 to Kingsville. I was in Kingsville for two months, and then  
11 he took me from Kingsville to Colorado.

12 Q. During those times that you were in Kingsville and then  
13 when you went to Colorado, were you still suffering abuse?

14 A. Yes.

15 Q. And it was still the same types of abuse that you have  
16 described to the Court today?

17 A. Yes.

18 Q. All right. Now, during the time that you were married to  
19 Devin, was he ever able to hold down a job?

20 A. No.

21 Q. And why could he not hold down a job?

22 A. Because he didn't want to and he forced me to go out and  
23 do it.

24 Q. And he would force you to go to work?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. I think you testified earlier that you -- you know, you  
2 were abused by CPS, you actually got a settlement from CPS; is  
3 that true?

4 A. Yes.

5 Q. And did you -- what did Devin do with your CPS money or  
6 what we'll call the CPS settlement money?

7 A. He took ahold of it.

8 Q. And he refused to work during that time; is that correct?

9 A. Correct.

10 Q. How would you characterize your marriage, from the time  
11 you got married in 2014 until the time of, say -- the time  
12 that you moved, that you were in -- went to Kingsville and  
13 then Colorado?

14 A. It was getting progressively worse with his abuse because  
15 he would just slap you around. Then it got worse when he  
16 isolated me a thousand miles away from everybody.

17 Q. Looking back, do you believe that he did that on purpose?

18 A. Yes. Because he knew I couldn't get away. I couldn't  
19 drive because he forbid me to drive.

20 Q. And how many cars did y'all have?

21 A. We only had the Jeep.

22 Q. And tell us about your time -- what happened while you  
23 were in Colorado? Tell us about your time there.

24 Where did you live and what went on while you were there?

25 A. We lived in an RV park. He was abusive. I wasn't allowed

DANIELLE SMITH - DIRECT

1 to do anything. He got in trouble for hitting the dog.

2 Q. And what did he do to the dog?

3 A. I wasn't physically there. I was in the trailer, but from  
4 the Court, they said that he beat the dog.

5 Q. So you had seen -- you had seen Devin being abusive to  
6 animals; is that true?

7 A. Yes.

8 Q. Is that the first time you had ever seen him being abusive  
9 to animals?

10 A. From that one dog, yes, until we got my wiény dog.

11 Q. Was he abusive to your wiény dog?

12 A. Yes.

13 Q. What did he -- what would he do to the wiény dog?

14 A. He would throw her and kick her and say it was my fault,  
15 and he would use her as a punishment against me.

16 Q. All right. So if you did something or said something he  
17 didn't like, he would abuse your dog?

18 A. Yes.

19 Q. Now, when you went off -- when married him in 2014 or when  
20 you moved in him with in 2013 into the barndominium, did Devin  
21 have any guns at that point in time?

22 A. Yes.

23 Q. What did he have when you first got married?

24 A. A hand-held gun.

25 Q. Okay. And I would assume -- you are no firearms

DANIELLE SMITH - DIRECT

1 specialist; correct?

2 A. No.

3 Q. And in fact, if I show you pictures of guns, you probably  
4 wouldn't -- you don't know the difference in them between  
5 maybe a handgun and rifle and those types; is that correct?

6 A. Well, I mean, I know a handgun is short, and you have it  
7 in your hand, but other than that, I can't tell you make and  
8 model. I can tell you the color.

9 Q. Okay. And when you say when y'all first got married, he  
10 had one handgun, do you know what kind of gun or anything?

11 A. It was shiny on the top and black on the bottom.

12 Q. And what happened with that gun?

13 A. He didn't like it because he said it kept jamming.

14 Q. Was it a used gun?

15 A. Yes.

16 Q. Do you know where -- as you sit here today, do you know  
17 where Devin got that gun?

18 A. He said he got it from a friend.

19 Q. And you said he didn't like it. Is it because it didn't  
20 work well?

21 A. Yes.

22 Q. And since that gun didn't work well, he got rid of it?

23 A. Yes.

24 Q. What did he do with that gun?

25 A. I don't really remember. I think he threw it away.

DANIELLE SMITH - DIRECT

1 Q. Okay. And so during that period of time while you were  
2 there from -- moving in from 2013, up until you went to  
3 Colorado, that was the only time he had that gun; is that  
4 true?

5 A. Yes.

6 Q. Now, did he -- during this period of time, was he looking  
7 at guns?

8 A. When we got in Colorado is when he started looking into  
9 guns.

10 Q. And you say -- when you say, "looking at the guns," what  
11 type of guns -- when you moved to Colorado in 2014; is that  
12 correct?

13 A. Yes.

14 Q. What type of guns did y'all look at while you were there?

15 A. He looked at handguns.

16 Q. And did he eventually purchase a handgun?

17 A. Yes.

18 Q. And how did -- excuse me. Let me reask the question.

19 How did he purchase -- how did Devin Kelley purchase that  
20 gun?

21 A. He went to a shop there and bought it brand new.

22 Q. And were you real happy with that at the time?

23 A. I didn't have a say in it.

24 Q. You didn't have a say in anything that he ever purchased  
25 or anything that he ever did?

DANIELLE SMITH - DIRECT

1 A. Correct. He had control of the money.

2 Q. When you -- if you wanted to call your parents during this  
3 time or you wanted to call a friend, can you tell the Court  
4 what he would require you to do?

5 A. I had to ask permission, and when he granted it, I had to  
6 have it on speakerphone, and I was only allowed five minutes.

7 Q. And would he sit and listen to your conversations during  
8 that time?

9 A. Yes. If I said something he didn't like, he would hang up  
10 the phone.

11 Q. Was that true for the entire marriage?

12 A. Yes.

13 Q. Even up until the day of the shooting?

14 A. Yes.

15 Q. Now, during the time that -- when you knew Devin prior to  
16 his time in the Air Force, do you recall him having any  
17 interest in guns before joining the Air Force?

18 A. No.

19 Q. And when you -- when he got out of the Air Force, is  
20 that -- and you moved to Colorado is when he first started  
21 getting really into guns from what you recall; is that true?

22 A. Yes.

23 Q. Once he got the new gun that he purchased from the store  
24 in Colorado, what type of things did he use the gun for and  
25 what did he do to you with the gun?

DANIELLE SMITH - DIRECT

1 A. He -- up there, I think he can, like, "open carry," is  
2 what it's called. He carried it on him all the time.

3 Q. So when he would go out in the public and the rest, he  
4 would carry a gun on his hip in a holster?

5 A. Yeah. I don't know what it's called, but, yeah, he had it  
6 on him.

7 Q. And when he would -- and would he wear it on his hip?

8 A. Yes.

9 Q. And did he do that when he was at what I'll call the  
10 Kelley compound?

11 A. Yes, he never left without the gun.

12 Q. So anywhere he went, he carried this gun, even when he was  
13 in -- whether he was in Colorado or Texas, he had this gun on  
14 him?

15 A. Yes.

16 Q. And I think that we talked about historically that Devin  
17 Kelley owned a shotgun at one point in time.

18 Do you recall that?

19 A. Yes.

20 Q. Can you tell the Court what happened with the shotgun?

21 A. He bartered for it.

22 Q. When you say, "bartered for it," what did he do?

23 A. He got it from, you know, bartering and then he got rid of  
24 it bartering.

25 Q. And so was that a used gun?

DANIELLE SMITH - DIRECT

1 A. Yes.

2 Q. And did he like used guns?

3 A. No.

4 Q. Can you tell the Court why he did not like used guns?

5 A. He told me that the only reason why he likes brand new  
6 ones is because they won't break.

7 Q. Did you ever see Devin Kelley during the time -- up until  
8 the time -- up until the time of the shooting, did you ever  
9 see him attempt to purchase, at any time, a gun from a private  
10 individual?

11 A. No.

12 Q. He did not -- did he like to deal with private  
13 individuals?

14 A. No. He only wanted to go to, like, the big stores because  
15 he knows that those guns are brand new.

16 Q. Did he ever -- I think that he also during this time of  
17 your marriage, would also go to gun shows; is that true?

18 A. Yes.

19 Q. And during the times that he went to those gun shows, how  
20 many times do you think he went to the gun shows between the  
21 time in Colorado, up until the time of the shooting?

22 A. It was only in Colorado --

23 Q. Okay.

24 A. -- he would go.

25 Q. You just went to the gun shows in Colorado?

DANIELLE SMITH - DIRECT

1 A. Yeah.

2 Q. When you were there at those gun shows, did he ever  
3 purchase a gun?

4 A. No. He just looked at everything.

5 Q. And you never knew that, did you, that Devin wasn't  
6 allowed to legally possess guns; correct?

7 A. Correct. I never knew. He never told me.

8 Q. If you had known that Devin was not allowed -- able to  
9 possess or purchase guns, what difference would that have made  
10 in your life?

11 A. If his full background was disclosed, I never would have  
12 gotten with him, and if he wasn't allowed to have guns, I  
13 would have never -- I would have done everything I could to  
14 make it to where he couldn't get them.

15 Q. If you had known that and he had guns, would you have  
16 called the police on him?

17 A. Yes. I would figure out a way.

18 Q. Did he beat you with these guns?

19 A. Yes.

20 Q. Did he beat you with the pistol he bought in Colorado?

21 A. Yes.

22 Q. How often would he beat you with this pistol?

23 A. It depended on the punishment. The punishments ranged  
24 from levels. He would give me hand signs or he would just tap  
25 his arm, which meant it's a warning. One finger meant I get

DANIELLE SMITH - DIRECT

1 something taken. Two fingers meant I'm getting hit. When he  
2 put all his finger on there, it meant that I was going to get  
3 beaten until he made me pass out.

4 Q. Would he do this while y'all were in public?

5 A. The hand signals, yes.

6 Q. And he explained those hand signals to you in order to  
7 control you?

8 A. Yes.

9 Q. So if you were doing something in public that he didn't  
10 like, he would place his --

11 A. He would go like this.

12 Q. Can you show the Court what exactly he would do?

13 A. He'd do one hand -- (indicating). This is a warning.  
14 This is I get a punishment. This is I'm getting hit. This  
15 means I was getting beaten.

16 Q. And when you say "this," you mean when he would pat on  
17 your arm, it meant that he was going to --

18 A. It was on his arm. Because all he had to do was go across  
19 the room. If I looked at somebody, that was automatically to  
20 the first one. If I talked out of turn, that was level two.  
21 If I said something that made him look bad, all the fingers  
22 would go up.

23 Q. And so -- and how often -- would this go on every time you  
24 went out in public?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. Now, when you were back home, in either Colorado or in the  
2 barndominium at the Kelley compound, how was the violence  
3 different than when you were in public?

4 A. In public, he made it seem like he was a good person. All  
5 he had to do was do the signaling.

6 Q. And so if you looked at a man that walked by, and he saw  
7 you doing that, what would he do at that point?

8 A. He would put his fingers up to where I knew I was getting  
9 in trouble. If I looked at a man talking, it was considered  
10 cheating. If I talked to somebody, it was considered  
11 cheating. If I didn't answer him in a timely manner, I would  
12 get punished.

13 Q. How long did y'all stay in Colorado during this time?

14 A. In Colorado, it was until my son was born and then we came  
15 back to Texas, and then we went to Colorado again for a little  
16 bit and then we came back, and then we moved up there for like  
17 a month and came back.

18 Q. I want to break it down for just a minute for the Court so  
19 we can understand, kind of, the history of your marriage and  
20 where you lived.

21 So why did he decide to move -- first off, why did y'all  
22 move to Kingsville, Texas?

23 A. I was going to college.

24 Q. Did you have a job during that time?

25 A. No.

DANIELLE SMITH - DIRECT

1 Q. What classes were you taking there?

2 A. I was going in to be a biomedical person and studying  
3 genetics.

4 Q. Did -- did Devin like that?

5 A. No.

6 Q. Can you tell the Court, why didn't Devin like the fact  
7 that you were going to -- that you were going to college in  
8 Corpus Christi?

9 A. Because he couldn't control it.

10 Q. He didn't -- he didn't like you being away from him; true?

11 A. True.

12 Q. So if you had to go off to class, he couldn't -- how would  
13 he react?

14 A. He would be upset.

15 Q. And would you take beatings when you got home?

16 A. He would slap me around and tell me that if I looked at  
17 somebody, you know...

18 Q. When did you become pregnant with Michael, your first son?

19 A. When we were in Colorado, 2014.

20 Q. And during the time that you were pregnant, did he  
21 continue to physically abuse you?

22 A. Yes.

23 Q. And when was -- when was Michael born?

24 A. He was born in March.

25 Q. And what was his -- what was his date of birth?

DANIELLE SMITH - DIRECT

1 A. March 25th of 2015.

2 Q. Was he born in Colorado, or was he born back here in  
3 Texas?

4 A. No. He's my Colorado baby.

5 Q. He's your Colorado baby. And so were you still living  
6 there in Colorado when he was born?

7 A. Yes.

8 Q. And where were y'all actually living at that point in  
9 time?

10 A. In the trailer.

11 Q. Had y'all purchased a trailer, or did you bring it up from  
12 Texas, or how did that work?

13 A. We purchased a trailer in Texas and then we moved it up to  
14 Colorado.

15 Q. When y'all moved into Colorado, what area of Colorado did  
16 you live in?

17 A. In Colorado Springs.

18 Q. So after the baby was born in March of 2015, how long was  
19 it before you decided to move back to Texas?

20 A. It was when he was six weeks old.

21 Q. So that would probably be about May of 2015; is that fair?

22 A. Yes.

23 Q. And y'all would have moved back to the barndominium on  
24 their property?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. What did they do with -- what did Devin do with the RV at  
2 that point?

3 A. It was left at the stables.

4 Q. Y'all just picked up and left it and drove back?

5 A. What?

6 Q. I'm sorry. Y'all just picked up and -- y'all picked up --  
7 y'all left it at the stables? Did y'all still own it, or did  
8 y'all just leave it there?

9 A. No. We owned the trailer. Like, every time we moved  
10 back, we would bring the trailer, and then we left the trailer  
11 in the stables on the Kelley property. I'm sorry.

12 Q. Oh, okay. I didn't mean to misunderstand you -- so y'all  
13 brought the trailer back with you, and they would put it in  
14 the stables. You would put it there, and that's where it was  
15 stored; is that true?

16 A. Yes.

17 Q. So when you moved back in May of 2015, you moved back into  
18 the residence that we talked about earlier into the  
19 barndominium; correct?

20 A. Yes.

21 Q. Were you still -- were there still rules that you talked  
22 about earlier, and the rules, as it dealt with Devin Kelley's  
23 family, were those still in existence at that time?

24 A. Yes.

25 Q. Now, when -- excuse me.

DANIELLE SMITH - DIRECT

1 Why did y'all make the decision to move back from Texas in  
2 May of 2015?

3 A. He wanted to move back for his parents so they could help  
4 with Michael.

5 Q. Was he patient with Mike at that point?

6 A. At the beginning, he was, because Michael was just a baby.

7 Q. Yeah. And so y'all -- when you moved back, did you have a  
8 job?

9 A. Yes. I ended up getting a job at Target.

10 Q. And tell us about the job at Target.

11 What did you do there?

12 A. I was a cashier and I had to close the store down.

13 Q. And that would put you working late at night?

14 A. Yes. I had gone there to, say, you know, work until  
15 11:00, which is when the store closed, but that doesn't mean I  
16 can go home, because I have to clean -- you know, close the  
17 store.

18 Q. During that period of time, was Devin Kelley able to work  
19 at that point in time?

20 A. No. He wasn't working.

21 Q. Why?

22 A. He didn't want to work. I had to work.

23 Q. So he would force you to work?

24 A. Yes.

25 Q. How would you get to work?

DANIELLE SMITH - DIRECT

1 A. He would take me.

2 Q. And would he pick you up from work also?

3 A. Yes.

4 Q. Were you able to keep your job at Target?

5 A. No. He got me fired.

6 Q. Can you explain to the Court why Devin Kelley got you  
7 fired during that period of time?

8 A. He kept calling in and saying that I needed to get out,  
9 and that he was there and he had been waiting and they had to  
10 let me go because it was going to turn into a domestic issue.

11 Q. So you were fired from your job at Target?

12 A. Yes.

13 Q. So after your job at Target, what happened next?

14 What was going on in your lives at that point in time?

15 A. After Target, we went back and then he was using the money  
16 that I had from the settlement, and then, you know, things got  
17 worse.

18 Q. Let's talk about that for a second.

19 You say you "went back." Did you go back to Colorado?

20 A. No. Like. Went back to just normal seclusion and...

21 Q. Can you tell the judge -- can you tell the judge what a  
22 day in 2015 was like, what your days were like with Devin  
23 Kelley?

24 A. I had to cater to him hand and foot.

25 Q. Did you feel like you were walking on egg shells?

DANIELLE SMITH - DIRECT

1 A. It was prison with him. It was like he kept me hostage.

2 Q. During the weeks of -- was he -- during 2015, and the  
3 times that you were here at the barndominium, was Devin still  
4 interested -- becoming more interested in guns?

5 A. Yes.

6 Q. And when I say, "more interested in guns," what type of  
7 things was he doing at this point in time in May of 2015 when  
8 you came back from Colorado?

9 A. He just came down and we were taking care of Michael.

10 He didn't get like really, really interested in it until  
11 2016.

12 Q. But during 2015, were you having problems in your  
13 marriage?

14 A. Yes.

15 Q. Obviously so, if you are being abused, it's a problem in  
16 your marriage, but did you ever express during those times  
17 that you wanted to divorce Devin Kelley?

18 A. Yes. Repeatedly.

19 Q. And when you said that, what would happen when you would  
20 tell him in, say, 2015 that you wanted to get a divorce?

21 A. He would hit me.

22 Q. I'm going to show you what's been previously admitted  
23 JEX487-B.

24 Can you see those text messages okay?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. And do you see -- do you see where in the middle of the  
2 page it says October 2nd, 2015?

3 A. Yes.

4 Q. Okay. Now, this would have been during the time while you  
5 were still living in Texas; correct?

6 A. Yes.

7 Q. Because you went back to Colorado one more time that we'll  
8 talk about in a minute; correct?

9 A. Yes.

10 Q. And so whose number is this at the top or whose phone was  
11 this? Who would you have been talking to in this text  
12 message?

13 A. Oh, I don't even -- I don't know. I don't know the number  
14 because it's blocked out.

15 Q. But when you see where it says, "Devin sent this to me,  
16 Hey, Danielle and I are going to part ways with you. It's  
17 obvious you don't want to talk to her, so good luck to you.  
18 We really enjoyed seeing you last time, especially me. It was  
19 way much better than I expected. LOL. Anyway, we love you."  
20 And they wrote, "He's cutie." And then you -- and then  
21 there's a writing. It says, "I don't know. I didn't even  
22 know he was texting you."

23 Do you see that?

24 A. Yes.

25 Q. Did somebody send this to you; do you recall?

DANIELLE SMITH - DIRECT

1 A. I don't know.

2 Q. If we go to the next page, it says -- it says: "I didn't  
3 know he was texting you. I figured. Message him and tell him  
4 to leave you alone." Do you see that?

5 A. Yes.

6 Q. And then below that, it says: "What's his deal? I really  
7 don't know to be honest. I feel like I chose the wrong mating  
8 partner for life."

9 Danielle, does that refresh your recollection that these  
10 may have been text messages with someone that you were -- you  
11 were talking with?

12 A. I guess.

13 Q. Okay. During those periods of time, did you feel like you  
14 had chosen the wrong mating partner for life?

15 A. Yeah. I made a mistake marrying him.

16 Q. Were you depressed during that time?

17 A. Yeah. I wanted to kill myself.

18 Q. Did you ever try?

19 A. Sometimes.

20 Q. Did you cry every day?

21 A. Yes.

22 Q. And if you scroll down where it lists -- it says: "All he  
23 does is yell at me and belittle me every day in public, even  
24 then..." Are those the kind of things that he would do?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. If we look on the next page, it says, "I'm taped in a  
2 marriage that makes me suffer every day." It should have  
3 probably said "trapped"?

4 A. Yes.

5 Q. But do you recall writing that?

6 A. Yeah, I was trapped. I couldn't get out and if I tried,  
7 he would make me pay for it. He would block the doors.

8 Q. If you scroll back up just a minute, and we go to the part  
9 that says, "When I have to do everything, I spent all of my --  
10 all of my settlement money on him. Now I have nothing."

11 Do you see that?

12 A. Yes.

13 Q. That would have been you probably texting these text  
14 messages; correct?

15 A. Yes.

16 Q. Because, in fact, by October of 2015, he had spent all of  
17 your settlement money; correct?

18 A. Yes.

19 Q. And so how did his behavior change once he had spent  
20 through the settlement money?

21 A. He was aggressive.

22 Q. Was he pretty pissed off all the time?

23 A. Yes.

24 Q. Go to page 3572. Keep going, scroll over. Just go to the  
25 next page. That's fine. We'll start there.

DANIELLE SMITH - DIRECT

1       Do you see where he says, "He doesn't even take care of  
2 Michael"? Do you see that?

3 A. Yes.

4 Q. During those times when Michael was an infant, did he --  
5 did he kind of neglect him?

6 A. He forced me to take care of him, but I didn't mind taking  
7 care of Michael because he's my baby.

8 Q. Sure. And that's being a good mom, but what you are  
9 saying is you absolutely had no -- he didn't work. He was  
10 abusive, and he would not take care of your child, help take  
11 care of your child?

12 A. Correct. If I was making dinner and Michael would be  
13 crying, I would ask him if he could go and see why he was  
14 crying, and he said it's not his job.

15 Q. Okay. What types of things did he do every day?

16 A. Sit there and boss me around.

17 Q. Did he smoke weed?

18 A. Yes. And he did whippets.

19 Q. Can you explain to the Court what a whippet is?

20 A. It's the nitrous cartridges, and when they -- like, when  
21 you make with homemade whip cream.

22 Q. Would that be something he would use to get high?

23 A. Yes.

24 Q. During this time in October of 2015, these text messages,  
25 was he abusing -- was he also abusing prescription pills?

Gigi Simcox, RMR, CRR

DANIELLE SMITH - DIRECT

1 A. Yes.

2 Q. What types of prescription pills would he take?

3 A. When I got pregnant with Rayleigh (phonetic), I was on  
4 migraine medicines, because it would make it to where I would  
5 throw up and was really, really sick so they had me on  
6 Fioricet. He wouldn't allow me to take my Fioricet because he  
7 wanted to use it to get high.

8 Q. And so he would take -- he would take your drugs also?

9 A. Yes.

10 Q. Now, if we go to the next page, we can see you sent a  
11 picture to -- whomever this person you were talking to, you  
12 sent a picture.

13 Do you recall sending this picture?

14 A. Yes. This would be to my mom, Erin.

15 Q. This would have been to Erin Brassfield?

16 A. Yes.

17 Q. Now that you have had a chance to review the exhibit, you  
18 can recall these pictures?

19 A. Yes.

20 Q. All right. And it says -- this is on November 11, 2015,  
21 roughly a month later to where we started. It says, "Do you  
22 still have a picture of when I sent you of me having a black  
23 eye?"

24 Do you see that?

25 A. Yes.

DANIELLE SMITH - DIRECT

1 Q. Can you explain to the Court, have you previously sent  
2 pictures to Erin Brassfield showing your abuse, and if you  
3 did, how many times?

4 A. Whenever I was able to. I was only allowed to have  
5 technology when I earned it. And when he would beat me, he  
6 would take it away, so I had to earn it back.

7 Q. What types of things would you have to do to earn it?

8 A. Whatever he told me to do.

9 Q. During this time, from the time you were married in 2014  
10 up until November 5th, when was the first time you found out  
11 that he had been cheating on you?

12 A. Oh, it was back when we were in Kingsville.

13 Q. So that would have been approximately 2014 -- no, wait.  
14 I'm off on my dates. Around May of 2015?

15 A. Yes.

16 Q. And how long did y'all actually stay in Kingsville?

17 A. Like, a month or two.

18 Q. And when you say, "he would take away, you would have to  
19 earn it," you said you would have to work for him and do  
20 different types of things?

21 A. Yes.

22 Q. But it would also be sexual in nature; correct?

23 A. Yes.

24 Q. So he would force you to do those things, basically, force  
25 you to do those things in order for you to earn your

DANIELLE SMITH - DIRECT

1      privileges in order -- in order to even have contact with the  
2      outside world; is that affair assessment?

3      A. Yes. He looked at me as his property.

4      Q. And it says here -- in November of 2015, it says, "It's  
5      not. It's fine. I'm trying to get everything together for  
6      when I talk to a lawyer. Devin won't ever get to see Michael.  
7      He's a predator and abusive."

8                 Did I read that correct?

9      A. Yes.

10     Q. So you were reaching out to her when you did have the  
11      privileges of technology to try to get some help so that you  
12      can get out of this relationship; is that true?

13     A. Yes.

14     Q. And did you believe he was a predator at that point?

15     A. Yes.

16     Q. And you knew at this point in time also that he had --  
17      that he had been cheating on you in November of 2015?

18     A. Yes.

19     Q. Now, at what point in time, Danielle, did you and Devin  
20      move back to Colorado?

21     A. Which time?

22     Q. How many times did you move back to Colorado? That's a  
23      better question.

24     A. I would say at least three times, maybe four if you count  
25      the month, when we were down there for like a month.

DANIELLE SMITH - DIRECT

1 Q. At one point in time, you moved to Colorado and y'all --  
2 y'all rented an apartment; do you recall that?

3 A. Yes.

4 Q. Do you recall about what time of year that was when that  
5 happened?

6 A. I think it was during the summer.

7 Q. And what year would that have been, 2016?

8 A. Maybe. I mean, Michael was just a little baby, like a  
9 couple months old. Maybe four months old.

10 Q. And when you were there in Colorado at that time, what was  
11 the reason he continued to move back to Colorado all the time?

12 A. Because he wanted to go back because they had weed.

13 Q. So he would -- he would go back so that he could legally  
14 buy marijuana?

15 A. Yes.

16 Q. And y'all would stay there for a while, and then he  
17 would -- he would pack up and decide that you were going to  
18 leave?

19 A. Yes. That was the first and third time. The second time  
20 we left is because I reached out to a roommate at that time  
21 with a handprint on Michael, and then when he found out that I  
22 did that, he made us up and leave in the middle of the night.

23 Q. And so I think y'all had leased an apartment and lived  
24 there maybe two weeks or so.

25 Does that sound familiar?

DANIELLE SMITH - DIRECT

1 A. Yes.

2 Q. And you saw that your baby, Michael, had a handprint on  
3 his leg?

4 A. Yes.

5 Q. And did you talk to Devin about that?

6 A. Yeah. I asked him. And he said it was because he held  
7 his leg too tight and his leg got bruised and he said he  
8 wasn't going to do it again.

9 Q. Were you pregnant with your daughter at this point in  
10 time?

11 A. No. I didn't get pregnant with my daughter until 2016  
12 because I had her in 2017.

13 Q. Okay. We're going to get to that.

14 During this time, though, y'all had just rented this,  
15 leased this apartment, and you cried out to your roommate at  
16 that point in time?

17 A. Yes.

18 Q. And what did she do -- oh, first off, what was her name?

19 A. Her name was Emily.

20 Q. And what did Emily do when she found out, or when you  
21 cried out to her and showed her the picture of the abuse to  
22 Michael's leg?

23 A. She said that, you know, she would get me help.

24 MS. CHRISTILLES: Objection. Hearsay.

25 THE COURT: That's -- any response to that?

DANIELLE SMITH - DIRECT

1 MR. WEBSTER: I didn't hear her answer yet.

2 THE COURT: Well, she's calling for hearsay.

3 MR. WEBSTER: Okay. I'm asking what her  
4 understanding of -- I asked her what happened when she told --  
5 let me reask --

6 THE COURT: No. What you asked was, "What did she  
7 say?"

8 MR. WEBSTER: I'm sorry. Let me reask the question.

9 THE COURT: That's sustained.

10 MR. WEBSTER: Thank you, Your Honor.

11 BY MR. WEBSTER:

12 Q. What -- what was your understanding -- what happened after  
13 you disclosed to Emily that Michael's leg had been bruised by  
14 Devin Kelley?

15 A. That she would help me get out of the marriage.

16 Q. And did --

17 MS. CHRISTILLES: Objection. Hearsay, Your Honor.

18 THE COURT: Yeah. No, that was not hearsay. That's  
19 overruled.

20 BY MR. WEBSTER:

21 Q. Now, when you -- when Devin -- how did Devin find out that  
22 you had shown her Michael's leg or provided her with a picture  
23 of Michael's leg?

24 A. He went through my tablet because I didn't have time to  
25 delete the messages.

DANIELLE SMITH - DIRECT

1 Q. Did he beat you for this?

2 A. He hit me.

3 Q. Where did he hit you?

4 A. On my ribs.

5 Q. And during the time that -- during the time of your  
6 marriage, did Devin get better at what I call "better at  
7 abusing you" where you can't see it?

8 A. Yes.

9 Q. How did he change the way that he would abuse you during  
10 this time?

11 A. He didn't do my face as often unless he knew we were going  
12 to not have to be in public. He would hit my ribs to where it  
13 would be his whole fist print or kick me in the back or choke  
14 me and then I would have to wear shirts to cover it up or put  
15 handprints on my legs.

16 Q. Did he ever choke you to where you would lose  
17 consciousness?

18 A. Yes.

19 Q. How many times would he do that, that you recall him doing  
20 that?

21 A. More times than any of us can count.

22 Q. When he -- during the time in 2015, when you -- when you  
23 came back from Colorado -- I think we talked about that --  
24 y'all -- I think y'all -- let me rephrase the question.

25 I'm sorry. I got off topic.

DANIELLE SMITH - DIRECT

1 When you were in Colorado and y'all rented this apartment,  
2 y'all had only been there about six weeks -- or two weeks or  
3 so; correct?

4 A. Correct.

5 Q. And y'all left? Y'all packed everything and left in the  
6 middle of the night?

7 A. Yes.

8 Q. And where did y'all go back to?

9 A. To Michelle's house.

10 Q. And did he, did Devin Kelley know whether or not Emily had  
11 ever filed a police report?

12 A. No.

13 Q. Now I want to talk to you about -- I want to talk to you  
14 about when you moved back into -- when did you come to  
15 permanently live where you weren't coming back and forth to  
16 Colorado? About what time?

17 A. I guess the end of '15, early '16.

18 Q. So you moved -- when I say "permanently," between the time  
19 of the shooting, up until -- going back --

20 A. Um-hum.

21 Q. -- when was the last time that you actually lived in  
22 Colorado? Was it that night y'all moved out in the middle of  
23 the night?

24 A. It was the one time we went to Pueblo for a month and then  
25 that's when we permanently moved back, and I guess that was

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1 2015-ish, 2016. It was before I got pregnant with my  
2 daughter.

3 Q. Okay. And when you came back and you got -- and you --  
4 when you came back, did you get a job at H-E-B?

5 A. Yes. That was after I was pregnant with my daughter.

6 Q. Was the pregnancy with your daughter planned, Danielle?

7 A. No.

8 Q. Was that pregnancy forced upon you?

9 A. Yes. He would take my birth control away from me as a  
10 form of punishment.

11 Q. Okay. And I would assume you did not want to have another  
12 baby at this point in time; is that true?

13 A. That's correct. I couldn't have another baby to try and  
14 protect from him.

15 Q. During this time, was he forcing you to watch pornography?

16 A. Yes.

17 Q. And he was still being -- still doing the same exact  
18 things, punching, slapping, choking, dragging you by the hair?

19 A. Yes.

20 Q. Did he ever -- did y'all ever talk at all about his  
21 previous relationships where he was married to Tessa?

22 A. No.

23 Q. Were you not allowed to bring that up or talk about it?

24 A. I wasn't.

25 Q. Now I want to move for a minute and talk to you now about

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1 after you came back from Colorado. I want to talk to you  
2 about Devin and guns. Okay?

3 A. Okay.

4 Q. Now, at the time of the shooting, Devin owned, from what I  
5 remember, three guns that you know of; is that correct?

6 A. From the time of the shooting?

7 Q. Yes, ma'am.

8 A. Yes.

9 Q. He had an AR-15; correct?

10 A. Yes.

11 Q. He had a .22 pistol; is that correct?

12 A. I just know he had two pistols.

13 Q. Fair enough. Two pistols. Okay. Now, I want to go back  
14 for a little bit. You stated earlier he didn't have any  
15 interest in guns prior to the Air Force that you can recall;  
16 correct?

17 A. Correct.

18 Q. I think you told the Court earlier that he started having  
19 an interest in guns in 2016; is that true?

20 A. Yes.

21 Q. And so how did it change in 2016 that he started  
22 expressing more of an interest in guns?

23 A. He just would research a lot, and then he said he wanted  
24 to do a gun school to teach people about guns.

25 Q. When he -- you issued an affidavit in this case with

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1 regards to -- would he tell you the types -- would Devin  
2 Kelley tell you the types of -- the types of guns that he  
3 would want to look at?

4 A. He said he wanted the AR for home protection, is what he  
5 would tell me.

6 Q. And when y'all lived there in the barndominium that we  
7 talked about earlier, did he have any type of -- he didn't  
8 have any type of machining tools or any specialized knowledge  
9 in building guns; did he?

10 MS. CHRISTILLES: Objection. Speculation.

11 THE COURT: You can testify from your personal  
12 knowledge.

13 THE WITNESS: From my personal knowledge, no. I  
14 don't think he knew how to, like, build guns.

15 BY MR. WEBSTER:

16 Q. If we go back and look at the photos of the -- of the  
17 barndominium and we look at page JEX799-0015, one of the  
18 entrances into the barndominium, the barndominium apartment  
19 that you were staying in was just to the right of here; is  
20 that correct?

21 A. Yes.

22 Q. And so this would have been the outdoor area where you can  
23 see -- is that your stroller and some toys for the kids and  
24 stuff over on the right?

25 A. Yes.

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1 Q. And so there was not any equipment or any type of machines  
2 or any of the rest that you recall, that he could build or  
3 assemble or disassemble guns that you recall; correct?

4 A. Correct.

5 Q. He didn't have any -- number one, y'all didn't have the  
6 money for that type of stuff, and number two, Devin Kelley  
7 didn't have the gun knowledge to even be able to do that; did  
8 he?

9 A. To my knowledge, he didn't, no.

10 Q. And so the knowledge that he had acquired from -- at least  
11 from what -- from your perspective based upon your own  
12 personal knowledge, any gun -- would he have acquired that  
13 knowledge from the Air Force?

14 A. Um...

15 MS. CHRISTILLES: Objection. Speculation.

16 THE COURT: That's speculation. That's sustained.

17 MR. WEBSTER: No problem.

18 BY MR. WEBSTER:

19 Q. Do you know whether or not the Air Force ever trained  
20 Devin Kelley in how to assemble or disassemble an AR-15?

21 A. I don't -- I don't know. I don't know anything about,  
22 like, what they do.

23 Q. Okay. Now, you went to -- on several occasions, y'all  
24 would go to different stores and look at guns; is that true?

25 A. Yes.

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1 Q. How often would that occur from, say, 2016, when you moved  
2 back and you said he got more interested, how often would  
3 y'all go to the store and look at those types of things?

4 A. Frequently. When he found a gun that he liked, and then  
5 after he got the AR, I know we went back several times because  
6 he wanted to buy stuff. And most of the times when he was  
7 going back, I would just take Michael and walk around with him  
8 so he could see stuff.

9 Q. Now, during that time, somewhere around November/December  
10 of 2015, did you go shopping with Devin Kelley at Dick's  
11 Sporting Goods?

12 A. Yes.

13 Q. Can you explain to the Court what happened while you were  
14 there? Why were y'all -- why did you go to Dick's Sporting  
15 Goods in November/December of 2015?

16 A. He wanted to buy a gun, and they said that since he had a  
17 Colorado ID and that Dicks wouldn't do it because it's  
18 something about their policy or something. They wouldn't sell  
19 him it.

20 Q. Were you personally there? Did you see the actual gun he  
21 was trying to buy?

22 A. Yes.

23 Q. What did you see at that point in time?

24 A. I mean, guns look the same.

25 Q. It's safe to say you are not real sure on the make or

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1 model or type of gun that it was; is that fair?

2 A. Yes.

3 Q. And what were you doing during that time? You had your  
4 son; correct?

5 A. Yes.

6 Q. Was he able to walk at that point in time?

7 A. No. He was just a baby.

8 Q. What were you doing while he was trying to purchase this  
9 gun?

10 A. I was moving around, keeping him happy.

11 Q. And you were just kind of basically what I would call  
12 "hovering around the situation," but not really paying  
13 attention to what's going on; is that a fair assessment?

14 A. Yes. When I came back around is when I came up upon them  
15 when he was saying like towards the end Dick's wouldn't do it  
16 because he had a Colorado ID.

17 Q. Was he upset?

18 A. I mean, we left the store and his face changed.

19 Q. Did he try to force you to go back in and buy the gun?

20 A. No.

21 Q. Would you ever buy a gun for Devin Kelley if he asked you  
22 to?

23 A. No.

24 Q. What would happen -- if he asked you to, what would  
25 happen?

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1 A. I would get -- you know, if I said, "no," he would beat  
2 me, but I would take the beating.

3 Q. Did you ever ask you to buy a gun for him?

4 A. No.

5 Q. Did you ever see him ask one of his parents or any other  
6 friend or someone else try to purchase a gun for him?

7 A. From my knowledge, no.

8 Q. And that's what I'm asking. Your personal knowledge, you  
9 never saw that; correct?

10 A. Correct.

11 Q. And he was pretty much -- during this period of time in  
12 2016, y'all were pretty much -- would you say that you were  
13 pretty much quartered off from the rest of the world?

14 A. Yes.

15 Q. And during the days of the week, during the normal days of  
16 the week, if neither one of you were working, y'all were just  
17 there at the house during the entire time; right?

18 A. Yeah. I wasn't allowed to do nothing.

19 Q. So were you allowed to take the kids outside and play?

20 A. He had to watch me and I had to ask permission. The only  
21 time I was allowed to do everything is if I got everything  
22 finished off the list of stuff that he had for me, and if I  
23 didn't finish it on a time stamp that he had, I would get a  
24 punishment.

25 Q. When after -- between December 2015 and April of 2016, do

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1 you recall ever going to any stores after the Dick's event  
2 where Devin Kelley tried to purchase any firearms? Did he go  
3 to any private individuals? Did try to do it any other way  
4 that you're aware of?

5 A. Besides going to Academy?

6 Q. Yes, ma'am.

7 A. He went to Academy and bought the AR.

8 Q. Right. But I am saying between the time that he went and  
9 bought the AR in April of 2016, do you recall -- do you recall  
10 at any time, did he try -- did he try to purchase the gun in  
11 any way that you're aware of?

12 A. Oh, no. He only wanted it from stores because he didn't  
13 want them to break.

14 Q. Now, when you -- once he -- in April of 2016, you went  
15 to -- you went to Academy with him; correct?

16 A. Yes.

17 Q. Did y'all go to different Academies from time to time?

18 A. No. We only went to the one Academy that was closest to  
19 New Braunfels.

20 Q. But you were there -- you were there the day that the  
21 rifle was purchased; correct?

22 A. Yes.

23 Q. If in your statement it says Selma, but the paperwork  
24 shows it was purchased at an Academy in San Antonio.

25 Do you recall ever going to an Academy in San Antonio?

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1 A. No. I thought it was the Selma one because that's the  
2 closest one to New Braunfels.

3 Q. But if it shows it was bought there, are you telling the  
4 Court -- where you there when it was bought?

5 A. No. It was bought there. I'm sorry. I didn't know the  
6 location.

7 Q. How many times do you think that you went to Academy,  
8 Danielle, during the time that you were married to Devin  
9 Kelley?

10 A. All of them except for the last one.

11 Q. Meaning, y'all went all the time?

12 A. Yeah. He would drag me along, and I didn't have a say in  
13 it, so when he would go in and buy it, I would take Michael  
14 around.

15 Q. And so you would go walk around the store and that kind of  
16 thing?

17 A. Yes.

18 Q. So regardless of what -- of what Academy it was in that  
19 day where the gun was purchased, you are telling the Court as  
20 you sit here today under oath that you were there?

21 A. Yes. I was there.

22 Q. Can you describe to the judge what happened when you went  
23 into the Academy and purchased the gun that day, what you can  
24 recall?

25 A. When we went in, they did a background check. His

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1 background check came back pretty quickly. I was driving  
2 Michael today around. I came back, and that's when manager  
3 was there, and they were talking and the manager, I guess, had  
4 to like override or approve, however you want to put it, for  
5 him to get the gun.

6 Q. And so once he purchased the weapon, y'all didn't have any  
7 problems purchasing it?

8 A. No once the manager came, it was quick.

9 Q. And did you -- were you upset that he was buying a gun?

10 A. I didn't have a say, so I didn't get to show emotions  
11 to --

12 Q. Did y'all have the money to buy a gun?

13 A. Oh, I didn't know what money we had because he would take  
14 it. He kept all finances away from me.

15 Q. And so once he purchased the gun, did he use the gun?

16 A. Yeah.

17 Q. Would he shoot it?

18 A. Yeah. He would shoot it. I know when we were there, he  
19 bought the little things that you put in it.

20 Q. The magazines?

21 A. Yeah. Those. And he bought the really big ones and he  
22 would go and shoot the gun. He would force me to pick them  
23 up, the shells, and if I didn't do it hard enough, he would  
24 take his pistol and hit me.

25 Q. So you would actually be out on their family property

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1 shooting the gun?

2 A. No. He would be shooting. I didn't touch it.

3 Q. I understand. Let me rephrase the question.

4 Devin would be out on the family property actually  
5 shooting the -- shooting the weapon and you would be standing  
6 besides him?

7 A. Yes.

8 Q. And he would force you to watch this?

9 A. Yes.

10 Q. Where would your kids be or Michael at the time?

11 A. I would have to have Michael with me and I put little,  
12 like, stuff on his ears, so it wouldn't hurt his ears.

13 Q. So when he would be out there practicing shooting, what  
14 types of things would he force you to do?

15 A. I would have to pick up the shells.

16 Q. Now, how often would that go -- would that on, Danielle?

17 A. A lot.

18 Q. Once or twice a week or...

19 A. However many times he went. Sometimes it would be more,  
20 or sometimes multiple times a day, like after a while, I  
21 just -- I stopped counting because I was forced to do so much  
22 stuff, I can't keep track.

23 Q. Would he -- he would never -- would he ever leave you  
24 alone in the barndominium?

25 A. No. Oh, I take that back. No, unless he had to work

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1 because he had a job towards the end and that's when I had an  
2 iPod, and when he left me alone, I had to check in, and if I  
3 didn't check in on time, he would come home.

4 Q. Okay. And did he give you any way to communicate with the  
5 outside world at that point?

6 A. No. The iPad you can't do nothing. You can only talk to,  
7 like, iPhones, but even then he monitored everything.

8 Q. Would he lock you in that barndominium?

9 A. Yes. The doors that you showed, I don't know if you  
10 wanted to put it back on so everybody can see so I can show  
11 y'all.

12 Q. Sure. Go to 0799-0016. Well, 17 would be better.

13 A. So can you scoot it back to the door, to the main door?

14 Q. Oh, okay. Yes, we'll go back two.

15 A. I'm sorry. On this one, do you see where it's in front,  
16 that was like cinder blocks, I think is what you call those  
17 concrete blocks. They had it there to block the door -- I say  
18 "they," Devin -- to where I couldn't lift it up because he  
19 would hear me and it was, yeah, those.

20 Q. Okay. So he would use cinder blocks to hold the door down  
21 and you couldn't lift it up?

22 A. Yeah. And then on the side, there is like a little --  
23 like a metal thingy. You know, it's like a hook that you are  
24 supposed to lock it. He would lock those down to where if  
25 you -- if you lifted it, you could hear it, and it was the

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1 same on the other side by the front door. Not the barn --  
2 not, like, the apartment door, but like the front door to the  
3 barn, like, thing that -- like if you go back to your other  
4 photo -- yeah, that one.

5 Like he would close it and put stuff there to where I  
6 couldn't get out, and then the front door next to it, it would  
7 stick to where it would -- you know, you got to pull it really  
8 hard and he would hear it.

9 Q. Okay. And when he would leave, though, when he would go  
10 to his job later on in time, did he lock you in the house at  
11 that point, too?

12 A. Yeah. And the windows -- you know, the first window up  
13 there that has the foil, you can't get to it because it's  
14 permanently closed. The bathroom window, which is a tiny  
15 little square past the big windows.

16 Yeah, that one.

17 There was no way to get to it. And if these, the big ones  
18 right there, it can open, but he put the heavy couch in front  
19 of it.

20 Q. Okay. So it was a way to keep you inside the house at all  
21 times?

22 A. Yes.

23 Q. Okay.

24 A. And if you left, it would be in front of his parent's  
25 house.

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1 MR. WEBSTER: Your Honor, at this time, could we take  
2 a short break?

3 THE COURT: Let's go ahead and take a 10- to  
4 15-minute break.

5 MR. WEBSTER: Thank you, Your Honor.

6 (Recess.)

7 THE COURT: You may continue.

8 MR. WEBSTER: Thank you, Your Honor.

9 BY MR. WEBSTER:

10 Q. Danielle, I'd like to transition now to a different area,  
11 and I'd like to talk to you about the Sutherland Springs  
12 Baptist Church; okay?

13 A. Okay.

14 Q. Can you tell the Court when did you first start going to  
15 the Sutherland Springs Baptist Church?

16 A. When I was a child.

17 Q. Okay. And you say, "when you were a child," would you go  
18 there with Michelle Shields?

19 A. Yes.

20 Q. Your adopted mother?

21 A. Yes.

22 Q. And was she a member of that church?

23 A. Yes.

24 Q. Is she still a member today?

25 A. Yes.

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1 Q. And can you tell us over the years what did that church  
2 mean to you?

3 A. I grew up at the church, so it's like another home.

4 Q. Were you close to many of the families there?

5 A. I was close to the Holcombes and the Hills.

6 Q. And did -- when you -- and you say you grew up in the  
7 church, did you consistently go there up until when?

8 A. Until I left home.

9 Q. And when you say you "left home," that would have been in  
10 April of 2014; correct?

11 A. Yes.

12 Q. And that would have been when you married Devin Kelley?

13 A. No. I left before then, because I moved out from  
14 Michelle's when -- I think, around 18 -- then I went to Erin's  
15 house. And then after Erin's house, that's when I moved in  
16 with him.

17 Q. During the times that you -- when you were growing up, did  
18 you go to vacation Bible school?

19 A. Yes.

20 Q. What types of things did y'all do there?

21 A. I helped with the toddlers.

22 Q. How old were you when you were doing that?

23 A. I was a teenager.

24 Q. And you also -- did you work in the nursery during  
25 services and stuff?

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1 A. I did.

2 Q. And did you have difficulties with the family at the  
3 church?

4 A. Yes.

5 Q. And why did you have difficulty with the family at the  
6 church?

7 A. I had a family that hasn't been at that church for a very  
8 long time. Her daughter and I just had a falling out and the  
9 family was just really ugly towards me.

10 Q. So did you stop going for a while -- or once you got  
11 married to Devin, did you stop going to church?

12 A. Yeah, because he didn't like church.

13 Q. Would he allow you to go to church?

14 A. Only when you earned the right to go see my mother.

15 Q. Would he attend church with you?

16 A. Yes.

17 Q. What was your mother's role at the church?

18 A. Like when? Like before the shooting? After the shooting?

19 Q. Yes, ma'am. Before the shooting.

20 A. Before the shooting, I think she was just a member. After  
21 the shooting, I think she was just a treasurer, kind of the  
22 person that deals with like finances.

23 Q. So she's still a member of the church today?

24 A. Yes.

25 Q. What other family members did you have, Danielle, that

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1 went to the church there?

2 A. My grandma.

3 Q. And any other family members?

4 A. I mean, just Naw Naw, my -- Lula White.

5 Q. Okay.

6 A. And then Michelle.

7 Q. Can you explain how was Lula White -- I apologize.

8 Can you tell us how Lula White -- I apologize. You were  
9 going to finish. I didn't mean to interrupt you.

10 A. Oh, it would be my brother that went to church and then  
11 Dan, who is my dad, went to church and then my grandmother and  
12 my grandfather before he passed away.

13 Q. Did Erin Brassfield ever go to church there?

14 A. No.

15 Q. Did Kurt Brassfield ever go to church there?

16 A. No.

17 Q. During the times that -- when you were married to Devin  
18 Kelley, did he know that that was a -- that you enjoyed being  
19 at that church?

20 A. Yes.

21 Q. Tell us how did that interaction work? How did he know  
22 that you enjoyed being at the Sutherland Springs Baptist  
23 Church?

24 A. He knew I took care of the babies.

25 Q. Was the church -- would you consider the Sutherland

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1 Springs Baptist Church a safe place for you?

2 MS. CHRISTILLES: Objection. Leading.

3 THE COURT: That's overruled.

4 THE WITNESS: Yes, it was home.

5 BY MR. WEBSTER:

6 Q. Why would you call it home?

7 A. Because it was just a place you can go in, and I loved the  
8 children there. I just wanted to work in the children's  
9 ministry.

10 Q. Did you often have conversations with Devin about this?

11 A. No. He knew beforehand that I loved it. I love children.

12 Q. And he knew that that was one of the places that was very  
13 sacred in your heart; is that fair?

14 A. Yes, because he knew that. When you teach a child, right,  
15 and when they get something, their little eyes sparkle.

16 Q. Right. Did Devin know during the time prior to the  
17 shooting that you often looked to the church members for  
18 support?

19 A. Yes.

20 Q. How did he know that?

21 A. He knew Karla Holcombe, that I adored her, and she was my  
22 youth pastor.

23 Q. She was your youth pastor?

24 A. Yes.

25 Q. Did you often confide in her?

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1 A. Yes.

2 Q. Back when I was a teenager -- you know, once I got married  
3 to him, I couldn't talk to anybody.

4 Even when you went to church, would he control what you  
5 had to say?

6 A. Yes.

7 Q. Now, when -- and how often during the time that you were  
8 married to Devin did you attend church there?

9 A. Just a handful of times, just so I could see my mother.

10 Q. Would he ever allow just her to come out to the house?

11 A. No. We had to go to her.

12 Q. The barndominium, he was -- she was never allowed on the  
13 property; correct?

14 A. Nobody was allowed there.

15 Q. And when you say that, he would use church as a way for  
16 you to be able to see her?

17 A. Yes.

18 Q. And can you explain to the Court when you would have an  
19 interaction with your mom, and the other patrons of the  
20 church, how was that, how did it work when Devin was with you?

21 A. When we were there, I had to be careful with what I said  
22 and how I said it, and I couldn't do eye contact. And I was  
23 only allowed short conversations.

24 Q. He didn't want any -- would you agree with me that he  
25 didn't want anyone talking to you?

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1 A. Yes. If he wasn't present, he would take me away from the  
2 conversation and ask what I said.

3 Q. And was that because he was trying -- was he -- at this  
4 point, do you believe he was scared that maybe you might tell  
5 somebody about the abuse you'd suffered?

6 MS. CHRISTILLES: Objection. Speculation.

7 THE COURT: That's sustained.

8 MR. WEBSTER: Okay.

9 BY MR. WEBSTER:

10 Q. Do you have any personal knowledge? Did Devin ever tell  
11 you why you were not allowed to talk to anyone?

12 A. Because I was his property.

13 Q. Did Devin ever express whether or not he actually liked  
14 the church to you?

15 A. He didn't say that he felt -- he didn't like churches,  
16 like it didn't matter what church it was, because he said he  
17 was an atheist. He didn't believe in any type of, like, a  
18 deity.

19 Q. So the only time you would get to church is if you earned  
20 the right to go and to see your mother?

21 A. Yes.

22 Q. Did Devin ever express that he felt slighted by the church  
23 members or that he felt unwelcome?

24 A. I don't really know what "slighted" means.

25 Q. That he felt like they had treated him badly?

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1 A. Oh, he thought everybody did. Like he thought everybody  
2 was always out to get him.

3 Q. He didn't like people; correct?

4 A. Correct.

5 Q. Now, he also -- during that time, did he have a run-in  
6 with your preacher? What I call a run-in or an argument?

7 A. Oh, I have no idea.

8 Q. Do you know whether or not the preacher ever approached  
9 Devin about a possible abuse towards you?

10 A. Oh, I wouldn't know.

11 Q. That's not something he would have told you; right?

12 A. No. He told me what he thought I needed to know at what  
13 time I needed to know it. Like, he kept a lot of things from  
14 me, even though at the time I thought he was being truthful,  
15 but he wasn't.

16 Q. And on November 5 of 2017, did Devin Kelley know what this  
17 church meant to you?

18 A. Yes.

19 Q. Now, I want to move to the next part, which is -- we're  
20 going to talk about -- I'd like to talk about just prior to  
21 November 5, 2017; okay?

22 A. Okay.

23 Q. Had y'all -- let me go back for a minute.

24 During that point in time, there was a run in, what I  
25 would call a run in or a law enforcement, that came out to the

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1 Kelley's property.

2 Do you recall that?

3 A. Yes.

4 Q. And you were not out there at the scene when that  
5 happened; correct?

6 A. Correct. I wasn't allowed to be.

7 Q. Where were you when the police came?

8 A. I was in the barn with my baby.

9 Q. How did you find out that the police had come to the  
10 Kelley property?

11 A. They left cards everywhere, and it was upsetting them, and  
12 then he went down to the gate, and when him and Mr. Kelley  
13 came back, they just looked very upset.

14 Q. Was he armed when he went down to the gate?

15 A. I believe so because he never took that off.

16 Q. And then I'll show you what's -- I'll show you JEX799-116.  
17 And do you see where it says the number 5 over here?

18 A. Yes.

19 Q. Is that the holster that he would wear on a regular  
20 occasion?

21 A. I believe so. I mean, I don't know much about gun stuff,  
22 so if it fits, then it's what he used.

23 Q. But he wore that -- I think we talked about that earlier,  
24 but he wore that on the property at all times; right?

25 A. Yeah, he wore it everywhere.

DANIELLE SMITH - DIRECT

1 Q. Now, what was your understanding as to why Devin Kelley  
2 didn't want you testifying at the Brassfield trial?

3 A. Because he couldn't control the situation. If he can't  
4 control what I say or what I do, he didn't like it.

5 Q. Okay. It wasn't any -- he wasn't looking out for your  
6 best interest; was he?

7 A. No.

8 MS. CHRISTILLES: Objection. Speculation.

9 THE COURT: That's sustained.

10 MR. WEBSTER: Here. I'll rephrase the question.

11 BY MR. WEBSTER:

12 Q. Do you feel like, based upon your own personal knowledge,  
13 that Devin Kelley was, was interfering in the Donald  
14 Brassfield trial in order to protect you?

15 A. He didn't care about me. He cared about himself he didn't  
16 care that I would have to -- you know, if he -- if I wanted to  
17 testify, right, and if he was there, he would have been fine  
18 with it, because all you've got to do is just give a look or  
19 do something. If he wasn't allowed there. He didn't want me  
20 doing it.

21 Q. Did he ever -- did Devin Kelley ever tell you that he  
22 didn't want you testifying because he was scared of what you  
23 might tell the police or tell prosecutors?

24 A. He said I was forbidden from talking to anybody.

25 Q. And it -- and it wasn't because -- I mean, do you believe,

DANIELLE SMITH - DIRECT

1 as you sit there today, based upon your own personal  
2 knowledge, that that was because of any type of protection of  
3 you in any way?

4 MS. CHRISTILLES: Objection. Leading.

5 THE COURT: That's sustained.

6 BY MR. WEBSTER:

7 Q. Why do you feel like he didn't want you to testify in the  
8 Donald Brassfield trial?

9 A. I guess because he thought I would try to get away from  
10 him.

11 Q. And would you have?

12 A. If I knew I could get out safely without my babies dying,  
13 yes.

14 Q. Now, the abuse and the beatings had continued after he  
15 bought the gun in 2016, right up until November 5th of 2017;  
16 correct?

17 A. Yes.

18 Q. But the way you felt about things had changed, would you  
19 agree?

20 A. Changed like?

21 Q. Meaning how did your reactions to the abuse you suffered  
22 under Devin Kelley's hand change over time?

23 A. I didn't want my son growing up to be like him. When I  
24 had my daughter, I didn't want her to think that she's some  
25 man's trash, some man's property, because she's not.

DANIELLE SMITH - DIRECT

1 Q. And when your daughter was born -- when was your daughter  
2 born?

3 A. May 24th of 2017.

4 Q. So she was just a baby on November 5th, 2017; right?

5 A. Yes, she was only five months old.

6 Q. So we talked about the November 1st, 2017 incident when  
7 the police came; okay. Leading up to that time, can you  
8 explain to the judge or tell him what happened in your  
9 relationship with Devin Kelley before November 5th of 2017?

10 A. He was cheating on me constantly all the time. I found  
11 out he was cheating again and I had had enough. I was tired.  
12 I was tired of being his punching bag.

13 Q. And did you know -- it was different this time, you had  
14 known about the cheating before but did you actually see  
15 evidence of it?

16 A. Yes.

17 Q. Can you tell the judge what you saw?

18 A. He had video of somebody giving him oral.

19 Q. And he showed that to you?

20 A. Yes.

21 Q. And what did you tell him, when you saw it?

22 A. I was done. I'm tired. I was done.

23 Q. And you testified earlier -- let's go to -- I want to  
24 show --

25 Go to 799-0043.

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1        This would have been standing, looking in the  
2 barndominium. The bed would have been behind you to the right  
3 and the closet would have been over your left shoulder;  
4 correct?

5 A. Yes.

6 Q. So this was the small area that many of the beatings that  
7 you took occurred; is that true?

8 A. Yes.

9 Q. And so when you would be -- as your daughter was born, she  
10 would be laying in the crib that you can see in 0041 there to  
11 the right; correct?

12 A. Yes. Oh, no. No. That white one, Michael was in the big  
13 one. The little rocker was where my daughter was at.

14 Q. And so they would see and witness this, witness his abuse  
15 of you on a daily basis?

16 A. Michael would. I would just tell him to close his eyes,  
17 that it didn't hurt.

18 Q. Would he start to cry, when he would see this?

19 A. He would cry and I would tell him: "It's okay. It  
20 doesn't hurt mommy. Just close your eyes."

21 Q. When did you tell Devin Kelley that you had had enough and  
22 you wanted a divorce?

23 A. It would have been that Friday and Saturday. Friday, he  
24 was cheating. I told him I was done. I was tired of him. He  
25 was punching me in my ribs. And Saturday I told him I wanted

DANIELLE SMITH - DIRECT

1 a divorce, I was done. I didn't want to be his punching bag  
2 anymore.

3 Q. If we go back to 0041, sir.

4 Danielle, where were y'all, when y'all were having this  
5 conversation or this fight?

6 A. It would have been on the couch.

7 Q. And so he would actually hold you down and punch you on  
8 the couch?

9 A. He would pull me by my hair and throw me to the table.

10 And I would hit the table and he would hold me down and punch  
11 me.

12 Q. Did this happen on that Friday before?

13 A. Yes.

14 Q. Okay. And that's when you told him -- he had shown you  
15 the video? At that point in time, he had shown you the video  
16 of the cheating, and that's when you said you had had enough?

17 A. Yes, because he got off on it.

18 Q. Did he -- did you -- how did -- were you crying, when this  
19 happened?

20 A. Crying, as in to what? That he was cheating on me?

21 Q. Yes, ma'am.

22 A. No, because I was used to being felt like I was trash.

23 Q. Do you think that based upon the way that you told Devin  
24 Kelley that you wanted a divorce, that he understood that it  
25 was real this time?

DANIELLE SMITH - DIRECT

1 MS. CHRISTILLES: Objection. Speculation.

2 THE COURT: You can testify from your personal  
3 knowledge.

4 THE WITNESS: From my personal knowledge, I think  
5 from that moment he knew I would have done everything to get  
6 away from him.

7 BY MR. WEBSTER:

8 Q. Why?

9 A. Because I tried fighting back but I lost.

10 Q. And when you say you tried fighting back, what did you do?

11 A. I tried hitting him. I tried doing everything, but it got  
12 to the point that I told him "I'm not afraid of you anymore,"  
13 but I was.

14 Q. And so what was his reaction at that point on Friday?

15 A. He was beating me and then it stopped. And then on  
16 Saturday when I told him I wanted a divorce, he was just calm  
17 about it, because I was expecting him to beat me again.

18 Q. But this time he didn't?

19 A. Not on Saturday, no.

20 Q. When you had the conversation -- going back to 0041.

21 When you had the conversation with Devin that day, were  
22 y'all sitting on the couch again on Saturday?

23 A. On Saturday, he was standing over me.

24 Q. Okay. Where were you at?

25 A. On the couch.

DANIELLE SMITH - DIRECT

1 Q. And when you say "standing over," were you sitting? Were  
2 you laying? How were you on the couch?

3 A. I was sitting there.

4 Q. And you were just looking up at him and he was standing  
5 over you?

6 A. No. I don't look him in the face.

7 Q. You weren't allowed to look him in the face?

8 A. No.

9 Q. So you had your head down and you were sitting there?

10 A. Yes. I had to look down when I talked to him because I  
11 wasn't allowed to look up at him.

12 Q. And you just -- can you tell the Judge exactly what you  
13 told Devin Kelley on that Saturday?

14 A. I wanted a divorce. I was done.

15 Q. And what did he say to you, if anything, at that point?

16 A. He was calm. And him and I talked and said that Monday we  
17 were going to go down to the courthouse to file for a divorce.  
18 And he agreed to meet my mother, Michelle, halfway.

19 Q. Okay. Had you reached out to your mom at this time to  
20 tell her that you had planned to leave?

21 A. No. All I had to do was call her and she would be there.  
22 It didn't matter where. She would drive to Colorado, if I  
23 needed her.

24 Q. So the plan at that point in time was that you had planned  
25 to leave on Monday?

DANIELLE SMITH - DIRECT

1 A. Yes.

2 Q. How come you just didn't stand up and leave right then?

3 A. How could I leave? I had two babies I have to worry  
4 about. I didn't care if he killed me. I cared if he killed  
5 my babies.

6 Q. And was he okay with the plan that you were going to go  
7 down there and meet Michelle?

8 A. He seemed like it.

9 Q. And did he get angry at that point, or anything like that?

10 A. He was just calm. Like no emotion. Calm.

11 Q. Did you believe, based upon your own personal knowledge in  
12 seeing what was going on, that Devin was okay with you getting  
13 a divorce?

14 A. I thought he was going to let me go. But, you know, he  
15 will never let you go.

16 Q. When the --

17 THE COURT: Counsel, let me stop you. The record is  
18 unclear about what date this Friday and Saturday is.

19 MR. WEBSTER: This would have been --

20 BY MR. WEBSTER:

21 Q. I would believe all of these events, Danielle, what you  
22 are talking about would have been on November 3rd and  
23 November 4th, two and one days prior to the shooting on  
24 November 5th, 2017; correct?

25 A. Correct.

DANIELLE SMITH - DIRECT

1 Q. And so what happened the rest of the day on Saturday? Do  
2 you recall what time approximately this conversation where he  
3 became extremely calm occurred, what time of day it was?

4 A. It was nighttime because he had to go to work and he came  
5 home early.

6 Q. Okay. So he had gone to his security job at that point in  
7 time during the day, and then when he came back is when y'all  
8 had the conversation?

9 A. Yes.

10 Q. And that night did y'all sleep in the same bed?

11 A. Yes, because there is nowhere else for us to go.

12 Q. So did he force you to have sex with him that night?

13 A. Yes.

14 Q. Did you want to have sex with him?

15 A. No, I never did.

16 Q. How long had he been forcing or raping you over the  
17 past -- since you had been married to him?

18 A. Four years.

19 Q. Would you try to fight him off at times?

20 A. At times I did. No matter how much I screamed, he just  
21 pushed my face farther into the bed and said: "This is what  
22 whores deserve."

23 Q. Did he -- at any time -- on that night, did you fight him  
24 on that night before the shooting?

25 A. I know if I just laid there and did nothing, he would

1 stop.

2 Q. So that's what you did?

3 A. After a while you learn that if you don't fight back and  
4 you just let it happen, it will be done quicker and you don't  
5 have to die.

6 Q. Was that a constant fear in your life?

7 A. Him killing me? Yes, because I knew he was going to one  
8 day.

9 Q. Now, I guess after this occurred you went to sleep; right?

10 A. Yes.

11 Q. Tell me what happened. Take us through -- first off, I  
12 want to go back and talk about the scene for a second.

13 Can we go back to Figure 0041 to start.

14 Danielle, you see here -- do you see in the corner the  
15 black bucket?

16 A. Yes.

17 Q. See that right there?

18 Let's go to 0116.

19 Talked about that a minute ago. Now, this is what -- I  
20 think this is what you referred to in your past testimony as  
21 "Devin's black tub;" is that correct?

22 A. Yes.

23 Q. And were you allowed to touch that tub?

24 A. No.

25 Q. Why were you not allowed to touch that tub?

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1 A. He made it clear. It was one of his rules. I can't touch  
2 it. I can't move it. I can't get near it.

3 Q. Were you allowed to look in it?

4 A. No.

5 Q. Did you, as you sit here today, on November 4th or the  
6 morning of November 5th, 2017, did you have any idea what was  
7 in that black tub?

8 A. I didn't know what was in it until he forced me to watch  
9 him put everything on.

10 Q. Okay. We're going to get to that in a second. But this  
11 black tub, is that the place that he always kept it, right  
12 there by the door?

13 A. Yes.

14 Q. Where did he keep his AR-15?

15 A. It was in the closet. It had a little rack that he put it  
16 on because he didn't want it to get messed up.

17 Q. So he hung the gun in the closet and he kept things in  
18 this bucket, but you didn't know what was in there; is that  
19 true?

20 A. Correct.

21 Q. You never saw him open it and put it in and you stood over  
22 his shoulder and got a chance to look at it?

23 A. No. I wasn't allowed to be there.

24 Q. When he would get in that box?

25 A. Yes.

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1 Q. Did he put any type of devices or things on it there that  
2 would keep you from being able to get into it?

3 A. He put stuff on there to where he knew I touched it. He  
4 would beat me. Or if he felt like I touched it, he would beat  
5 me.

6 Q. So you got accused of touching it at certain times but you  
7 never touched it?

8 A. Yes.

9 Q. Now, going back to 0041, about what time did y'all get up?  
10 About what time did y'all get up that morning on  
11 November 5th of 2017?

12 A. Early. I don't know the time because I didn't have  
13 anything to tell me time, so it was early in the morning.

14 Q. You didn't have a clock or anything like that, so you  
15 wouldn't know what time it was?

16 A. Yes. We didn't have a clock hanging up.

17 Q. Tell me about his demeanor this morning. What did you  
18 perceive his demeanor to be that morning, when he woke up?

19 A. He was just different. Like the whole thing was just  
20 different.

21 Q. Was he talkative?

22 A. No, not really. He told me to fix him a light breakfast.  
23 I fixed him a light breakfast. He threw up that breakfast.  
24 And then after that I got my babies taken care of, and that's  
25 when he put the gun to my head and told me to get on the bed.

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1 Q. Okay. Let's talk about that for a second. So was he  
2 sitting on the couch, when he told you to make him some  
3 breakfast?

4 A. Yes.

5 Q. And do you recall what you made him?

6 A. I think it was tacos.

7 Q. If there's some pictures here inside to show that you made  
8 him some -- that there were pigs in a blanket on the bar?

9 A. Oh, then yeah. It was probably pigs in a blanket.

10 Something breakfast-y and quick.

11 Q. So that was something you warmed up in the microwave?

12 A. Yes.

13 Q. What did you do next? You carried the plate over to him?

14 A. Yes. I had to feed him, like I had to prepare his plates  
15 for him.

16 Q. And so once you set the plates down, what happened next?

17 Did he eat the food?

18 A. He ate it and then he threw it up.

19 Q. How long was it between the time he ate it and then he  
20 threw it up?

21 A. Not very long.

22 Q. Did he get up from the couch and run into the bathroom?

23 A. Yes. And he threw up.

24 Q. So where were you standing? Did you watch this happen?

25 A. I mean, I knew he was throwing up, but I was taking care

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1 of my kids.

2 Q. Where were you in the house and here in the apartment at  
3 that point?

4 A. I was taking care of my daughter.

5 Q. So were you over by the little baby, the smaller baby crib  
6 that's next to the bed?

7 A. Yes.

8 Q. And so when he came out of the bathroom, what happened  
9 next?

10 A. I got my daughter dressed and changed. Michael was in his  
11 crib, already changed, and he came over and put the gun to my  
12 head.

13 Q. Where did he get the gun from?

14 A. It was the gun that he carried with him all the time.

15 Q. He already it had on that morning?

16 A. Yes.

17 Q. So when he got up and got dressed that morning from bed,  
18 he put his gun on?

19 A. Yes. It was by the little table by the bed, like he slept  
20 with it and --

21 Q. He had it with him at all times; it was next to the bed?

22 A. Yes.

23 Q. So then he got up and then he came over. And explain to  
24 the Court exactly what he did, if you could, please.

25 A. He put the gun to my head and forced me to get on the bed

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1 and hog tied me and handcuffed my hands and duct taped them  
2 together.

3 Q. When you say he put a gun to your head, did he grab you by  
4 your hair?

5 A. Yeah. He --

6 Q. I know this is hard.

7 A. He put the gun to my head and he bunched it up in the back  
8 and threw me on the bed and positioned me to where he could  
9 hog tie me.

10 Q. So when he would doing this, was he saying anything to  
11 you, Danielle?

12 A. He was just quiet.

13 Q. I'm sorry. I can't hear you.

14 A. He was quiet. I knew I didn't fight back. After getting  
15 guns to your head so many times, you learn to be compliant.

16 Q. And so he drug you by your hair and then put you on the  
17 bed. In what position did he put you, on your stomach?

18 A. On my stomach, because he took my wrists and my ankles and  
19 bound them together with rope.

20 Q. Go to 0036, please.

21 And so I know this is hard, and this is not something you  
22 want to relive, but we appreciate this. But let me ask you  
23 some more questions here. When he threw you on the bed, which  
24 way was your head pointed on the bed?

25 A. At first it was pointed towards like the pillow by the

1 corner so he could tie me up.

2 Q. Okay. So your head was forced into the corner here?

3 A. So my head would have been pointing that way but I was  
4 more towards the edge so he could tie me up.

5 Q. Okay. And when you say "hog tie", did he tie your hands  
6 behind your back?

7 A. Yes. I was on my stomach. He pulled my arms back, both  
8 my ankles back, and tied them together.

9 Q. Okay. So in the sense of hog tie, you mean you are laying  
10 on your stomach, your feet and your hands are up behind you,  
11 and you are handcuffed, duct taped, and rope tied; is that  
12 true?

13 A. Yes.

14 Q. Did he say why he was doing this?

15 A. No. After that he just flipped me around to where I had  
16 to watch him.

17 Q. Okay. When you say flipped you around, he turned you back  
18 towards where we would be looking at the tub that we saw in  
19 Exhibit 0041?

20 A. Yes.

21 Q. All right. And so did you ask him, hey -- were you  
22 screaming at that point in time?

23 A. I was crying but my son was there, so I didn't want him  
24 getting upset.

25 Q. Okay. So you weren't screaming, you were just quiet, just

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1 kind of watching; huh?

2 A. Yeah. Because what can you do, if your hog tied and your  
3 children are there? Because all he had to do was take them  
4 and I couldn't do anything.

5 Q. Was Michael standing up in the crib watching what was  
6 going on?

7 A. He was.

8 Q. And what was your baby girl doing?

9 A. She was laying there next to me on her little rocker crib.

10 Q. Were either one of them crying at that point?

11 A. Michael was. I told him it would be okay, he had to just  
12 close his eyes.

13 Q. Did he do that?

14 A. He was crying and screaming and closing them.

15 Q. Now, and you -- did you ask him what he was going to do?

16 A. No. I stayed quiet.

17 Q. Did he give you any instructions?

18 A. No. He just -- no. We just laid there. I laid there. I  
19 knew this is a time that something was going to happen.

20 Q. How did you know that Danielle?

21 A. Because he hog tied me and he got the guns and he put his  
22 face mask on and told my son he would be right back.

23 Q. So he then -- Devin then walked over to the crate that we  
24 saw in Exhibit 116; right?

25 A. Yes, the black box.

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1 Q. The black box; right?

2 A. Yes.

3 Q. And tell the Court, what did Devin do and how did he do  
4 it?

5 A. He was already dressed in all black. He put on the vest  
6 that had everything attached to it. He had both the little  
7 guns on him and he took his AR-15 and put it on his back.

8 Q. Did he do this slowly and methodically, while you watched  
9 him?

10 A. Yes.

11 Q. What was your understanding as to why Devin Kelley was  
12 doing that to you?

13 A. Because I wanted to leave him.

14 Q. Do you believe that this was a form of punishment, based  
15 upon your personal knowledge of what happened in that room?

16 MS. CHRISTILLES: Objection. Speculation.

17 THE COURT: That's overruled.

18 THE WITNESS: Yes. He punished me because he told me  
19 repeatedly the only way one of us got out was a body bag.

20 BY MR. WEBSTER:

21 Q. And so you did not know where he was headed or where he  
22 was going to go that day; correct?

23 A. Correct. I didn't know.

24 Q. And so he slowly and methodically put on his body gear,  
25 his body armor?

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1 A. Yes.

2 Q. Did you even know he owned body armor?

3 A. No. I didn't know half the stuff that was in the box. I  
4 say half. Like I didn't know anything.

5 Q. Okay. And so he slowly -- and then the very last thing  
6 that he put on was the mask?

7 A. Yes.

8 Q. And the only thing that he said was what?

9 A. That he told my son he would be right back.

10 Q. He looked at Michael and said he would be right back?

11 A. Yes.

12 Q. And then he walked out the door?

13 A. Yes.

14 Q. Okay. Danielle, how long do you think you were there on  
15 the bed?

16 A. Oh, I have no idea. It felt like forever.

17 Q. Did you try to escape?

18 A. Yes, but how can you do -- when you move, the handcuffs  
19 got tighter. And then kept struggling, and then the rope  
20 around my wrists and ankles were getting tighter.

21 Q. Okay. And so you don't know how long you were there.

22 Obviously, there was no clock for you to even tell what time  
23 of day it was; right?

24 A. Yes.

25 Q. Did you know it was a Sunday?

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1 A. No, I had no idea.

2 Q. Now, when -- tell me what happened next. While you were  
3 tied up in there, were your kids screaming?

4 A. Michael was. Rayleigh was just sleeping.

5 Q. Michael watched what was going on?

6 A. Yes.

7 Q. Did he try to get out of the crib at all?

8 A. No. He's only two. He's just a baby. He didn't  
9 understand. I told him it didn't hurt and he didn't need to  
10 be scared.

11 Q. Okay. Now, when was the first time you knew -- at some  
12 point in time the Kelley family came to your aid; right?

13 A. Yes.

14 Q. When I say the Kelley family, I mean his parents.

15 A. Yes, Mr. and Mrs. Kelley.

16 Q. Can you tell the Court what happened next, when the  
17 Kelleys showed up to your house, or the barndominium?

18 A. They couldn't -- the door was locked, so they had to like  
19 bust down the door. They asked what did I do.

20 Q. They asked what you did?

21 A. Yes.

22 Q. Did you find that odd?

23 A. I mean, at the time I was just like nothing, because I  
24 wanted to get out of the restraint.

25 Q. Right. And they untied you?

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1 A. Yep. They untied me. That's when he called them and they  
2 asked where the keys to the handcuffs were, and then that's  
3 when he told them and they undid my handcuffs.

4 Q. And so when he called them on the phone, was it on  
5 speaker, or was he just talking to his dad? Who was he  
6 talking to then?

7 A. When he called, he put it on -- they put it on speaker for  
8 a while, and so he told me to take him off of speaker.

9 Q. Okay. Before he told you to take him off the speaker,  
10 what was said by Devin Kelley over the phone at that point in  
11 time?

12 A. That he shot a lot of people and that he was shot. And  
13 they asked where. He said the church, and that he was trying  
14 to come back home.

15 Q. And when you heard that it was the church, when he said  
16 the church, did you know what church he meant?

17 A. Not until after, like after more of the conversation.

18 Q. Can you tell us to the best of your recollection how you  
19 figured out it was the Sutherland Springs Baptist Church?

20 A. Because they were saying Sulfur Springs, and then he said  
21 at her mother's church.

22 Q. Okay.

23 A. And that's when I knew.

24 Q. What else did Devin tell you during that phone call or  
25 prior to him going off speaker, what else do you recall that

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1 he said to you and the Kelleys?

2 A. He had me take him off speaker and he said he loved me,  
3 even though it was just to get me on the phone. And then he  
4 blamed me and said it was my fault and he shot himself.

5 Q. Did you hear him shoot himself in the head?

6 A. Yes. That's when I hung up the phone.

7 Q. And you hung up the phone?

8 A. Yes.

9 Q. Now, I think you said he blamed you for this?

10 A. He did. He said: "It was your fault."

11 Q. Michelle -- I'm sorry. Danielle, did y'all call law  
12 enforcement after that?

13 A. His parents did.

14 Q. Were you there when that -- what happened after you hung  
15 up the phone? What happened next?

16 A. His dad called them and I was getting my babies.

17 Q. And you were trying to take care of the children?

18 A. Yes, because they were my concern.

19 Q. And what happened next in the scheme of things? Did y'all  
20 go anywhere? Did you stay at the house? What happened next?

21 A. We went down to their house. They helped me get all my  
22 babies and all their stuff. And then we later on that night  
23 we had to talk to the Texas Rangers.

24 Q. Okay. And so just after this the Texas Rangers came and  
25 they wanted to speak to you about what had happened there; is

DANIELLE SMITH - DIRECT

1 that correct?

2 A. Yes.

3 Q. And Mr. Kelley went with you there; is that true?

4 A. Well, all of us were there. They had us all go.

5 Q. Everybody was there, including Mr. and Mrs. Kelley and  
6 you; right?

7 A. Yes.

8 Q. And your children?

9 A. Yes. But when the time to like talk to them, Mr. and  
10 Mrs. Kelley went together. Mrs. Kelley came back. And then I  
11 went in there, because Mr. Kelley was in there when I gave my  
12 statements.

13 Q. Can you please pull up Exhibit 7 -- 694, please.

14 MR. WEBSTER: Your Honor, these are videos that have  
15 been previously admitted under the Texas Ranger file. The  
16 first clip we are going to listen to is 5411 to 5522.

17 I'd like for you just to pull it to that point and  
18 stop. I have some questions but I have to set it up.

19 THE COURT: So just to be clear, this is Joint  
20 Exhibit 694?

21 MR. WEBSTER: That is correct, Your Honor. The  
22 clips, for the court reporter, are 5411 to 5522 and 10159 to  
23 10230.

24 BY MR. WEBER:

25 Q. Okay. Now, Danielle, that's you over in the right-hand

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1 corner; is that correct?

2 A. Yes.

3 Q. And that would be your then father-in-law, Mr. Kelley,  
4 sitting next to you; is that right?

5 A. Yes.

6 Q. Did anybody advise you that you needed a lawyer at that  
7 point in time?

8 A. No.

9 Q. Were you scared in that room?

10 A. Yes. I can't say anything because I don't like conflict.

11 Q. Do you think that that is a reason -- do you think that  
12 that is because of the abuse that you suffered over the years?

13 A. Yes.

14 Q. And so when you were there, Mr. Kelley was sitting right  
15 next to you listening to everything you had to say; correct?

16 A. Yes.

17 Q. Did you feel open that you could talk about what had  
18 actually happened with the Rangers in front of Mr. Kelley?

19 A. Like what do you mean, what happens?

20 Q. Like the fact that you had told Devin Kelley that you  
21 wanted a divorce, that you wanted a divorce and that you  
22 planned to leave him, and those type of things?

23 A. I thought his parents knew that we were going to get a  
24 divorce --

25 Q. Okay.

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1 A. -- from my understanding.

2 Q. How did you find that out?

3 A. He said that he was going to have his parents watch one of  
4 the days so that we could talk. But on that Monday, we were  
5 going to go and get a divorce.

6 Q. And so if we look at -- let's move around real quick. I'm  
7 sorry to do this to you.

8       Joint Exhibit 799-00044. If you blow up the portion that  
9 says this is 8:14 a.m., this is the same day on November 5th,  
10 2017, it says: "If we get Medicaid back, maybe we will just  
11 go to counseling. I don't know. Me and her need time to  
12 talk." Do you see that?

13 A. Yes.

14 Q. That is a text message from Devin Kelley to his mother.  
15 Is that consistent with what you believed that his mother knew  
16 at that time, as it relates to you wanting a divorce?

17 A. Yes.

18 Q. And that is November 5th, that was the actual day of the  
19 shooting; correct?

20 A. Yeah.

21 Q. If you go back one page to 003, and it says: Okay --  
22 this is where he had requested that his parents -- did you  
23 know he had requested his parents to watch the kids?

24 A. He told me that he wanted them to watch them before we  
25 went to the courthouse so we could talk about the divorce.

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1 Q. Okay. And so where he says: "We just need alone time to  
2 talk, so maybe tomorrow." That's consistent with what you had  
3 told him about wanting a divorce that day; right?

4 A. Yes.

5 Q. If we go back to the video, and this is Joint Exhibit 694,  
6 and that's you in the corner at that point; correct?

7 A. Yes.

8 Q. Had you even changed clothes that day from when you got up  
9 that morning?

10 A. No.

11 Q. How did you find out that the Texas Rangers wanted to talk  
12 to you?

13 A. They called, I think Mr. Kelley, and said they needed all  
14 of us to go and talk to them.

15 Q. So you went down and this is where they put you in the  
16 room?

17 A. Yes.

18 Q. And who was watching your kids at this point?

19 A. They were out in like I guess a waiting area with  
20 Mrs. Kelley.

21 Q. And so Mr. Kelley was there with you during your  
22 statement; right?

23 A. Yes.

24 Q. All right. Could you please play this.  
25 (Clip was played.)

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1 During that time, during that time in that interview, were  
2 you shaking?

3 A. Yeah.

4 Q. I could see that -- it looks like, were you crying?

5 A. Yes.

6 Q. Did you feel like you could tell them everything that  
7 happened in front of Mr. Kelley?

8 A. No.

9 Q. Can you tell the Judge why?

10 A. I don't like conflict and I didn't know what they would do  
11 or say, since I lived with him.

12 Q. There were times in the Texas Rangers' report,  
13 specifically on Joint Exhibit 0600-003 --

14 And if you drop down to 2.20.

15 And do you see where it says: "Michael stated earlier  
16 that morning he had asked Danielle if she and Devin had a  
17 fight. Michael stated Danielle said no, they had not, and  
18 everything was great and Devin was happy." Was that truthful?

19 A. No.

20 Q. Why didn't you tell the truth there, Danielle?

21 A. Because I can't tell them because Mr. Kelley was always  
22 there every single time I was talking. How can you tell  
23 somebody that you were being in an abusive relationship when  
24 their parents are sitting in the same room?

25 Q. If you go to the next page, 004. And it says, 2.33, at

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1 the very top.

2 It says: "During the interview Danielle stated it was a  
3 normal day. She and Devin woke up and Danielle took the dog  
4 outside while Devin was in the shower. Danielle described  
5 Devin as being normal and very loving that morning." That's  
6 not correct either; correct?

7 A. Correct. He wasn't loving.

8 Q. Did he take a shower that morning?

9 A. I don't remember him taking a shower.

10 Q. And then if you drop down to 2.46, it says: "Danielle  
11 stated Devin had cheated on her but they had worked through it  
12 and everything was fine." Is that true?

13 A. When you say "worked through it," as in beating me and I  
14 never brought it up again.

15 Q. Okay. Did you feel like at that point in time -- why  
16 would you say that everything was fine?

17 A. Because I don't like talking about it. Like, why -- how  
18 do you tell people when you confront somebody, your spouse,  
19 and they blame you for every single thing that they did. And  
20 then his parents are just sitting there, like his dad would be  
21 like, oh, well, I never knew that.

22 Q. Can you show the second clip, please, from the 694 video.

23 (Clip was played.)

24 Did you feel like Mr. Kelley was being in control of you,  
25 when you had a hand on your shoulder and rubbed it during the

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1 interview?

2 MS. CHRISTILLES: Objection. Leading.

3 THE COURT: You can testify as to how you felt.

4 THE WITNESS: I felt like when he put his hand on me  
5 I couldn't say nothing.

6 BY MR. WEBSTER:

7 Q. At this point in time, did you have a car?

8 A. Like of my own, or that we shared?

9 Q. Even the one that you shared. After the shooting here,  
10 when you are sitting in that room, did you have any means of  
11 transportation at that point?

12 A. No, because the only vehicle we had was the one that he  
13 took with him to the shooting.

14 Q. And at that point in time did you have anyplace to really  
15 go live at that point?

16 A. I mean, besides Michelle's house, but I didn't want to go  
17 there because it's so close to the church.

18 Q. But you were living on the Kelley property and were  
19 depending on Mr. Kelley; correct?

20 A. Yeah. I was depending on them, yes, because I had  
21 nothing.

22 Q. Was Mr. Kelley with you the entire time that you spoke to  
23 any law enforcement officer, including the IG?

24 A. Like the IG?

25 Q. I am terrible with acronyms.

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- 1       The Inspector General's Office.
- 2 A. Yes. He was there for all of them. The only time
- 3 Mr. Kelley was never there was when I talked to you.
- 4 Q. And that was both the time that we met and discussed this
- 5 case, and then also when you gave your deposition; correct?
- 6 A. Correct.
- 7 Q. Is that the first time you felt like you could really tell
- 8 the truth about what happened?
- 9 A. Yes, because they weren't there.
- 10 Q. As you sit here today, Danielle, do you believe that Devin
- 11 Kelley shot up the Sutherland Springs church to punish you
- 12 because you wanted a divorce?
- 13 A. Yes.
- 14 Q. Your family members died in this; correct?
- 15 A. Yes.
- 16 Q. And who was it that passed away, your grandmother?
- 17 A. My grandma.
- 18 Q. What was her name?
- 19 A. Her name was Lula White.
- 20 Q. Do you believe that Devin Kelley believed that your mother
- 21 Michelle Shields would have been at the church that day?
- 22           MS. CHRISTILLES: Objection. Speculation.
- 23           THE COURT: Only if you know.
- 24           THE WITNESS: I believe he thought she was, since she
- 25 went almost every single Sunday and hardly missed.

Gigi Simcox, RMR, CRR

DANIELLE SMITH - DIRECT

1 BY MR. WEBSTER:

2 Q. Okay. And the Brassfields, we talked about this earlier,  
3 Erin or Kurt Brassfield would not have been in that church;  
4 correct?

5 A. Correct.

6 Q. And, in fact, Erin Brassfield and Kurt Brassfield were --  
7 he was out free on bond at that point; correct?

8 A. I believe so.

9 Q. So if he -- if this was some type of avenged killing, as  
10 the government says it was, as it relates to Mr. Brassfield --

11 MS. CHRISTILLES: Objection. Leading.

12 THE COURT: That's sustained.

13 MR. WEBSTER: Okay.

14 BY MR. WEBSTER:

15 Q. Was there anything stopping Devin Kelley that morning from  
16 driving over to Kurt Brassfield's house and killing him?

17 MS. CHRISTILLES: Objection. Speculation.

18 THE COURT: That's sustained.

19 BY MR. WEBSTER:

20 Q. Did Devin Kelley ever express to you, in any way, that he  
21 planned to kill Kurt Brassfield?

22 A. No.

23 Q. And, as you sit here today, you believe this was  
24 punishment for your divorce?

25 MS. CHRISTILLES: Objection. Asked and answered.

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1           THE COURT: That's overruled.

2           THE WITNESS: Yes.

3           MR. WEBSTER: Your Honor, plaintiffs pass the  
4 witness.

5           THE COURT: Any questions of this witness, from the  
6 government?

7           MS. CHRISTILLES: Your Honor, may we take a brief  
8 break?

9           THE COURT: So it's 11:42. Should we break for  
10 lunch?

11          MS. CHRISTILLES: I think that would be a good  
12 stopping point, Your Honor.

13          THE COURT: Just for time purposes, any estimation  
14 how long cross may take?

15          MS. CHRISTILLES: I estimate two hours, Your Honor.  
16 I submitted two hours.

17          THE COURT: Are we going to get to Mr. Snyder today?

18          MR. ALSAFFAR: Yes.

19          THE COURT: So, as I mentioned earlier, places to eat  
20 around here are very limited. How much time do you want to  
21 break, 30 minutes, 45 minutes, an hour?

22          MR. ALSAFFAR: For the plaintiffs, Your Honor, 30  
23 minutes is fine.

24          THE COURT: How much time does the government want?

25          MS. CHRISTILLES: Thirty minutes is fine, Your Honor.

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1           THE COURT: So let's break for lunch. We'll resume  
2 about 12:15, 12:20.

3           MS. CHRISTILLES: I'm sure counsel has prepared for  
4 lunch, but I want to make sure the witness has adequate time  
5 to eat.

6           MR. ALSAFFAR: We'll take care of it, Your Honor.

7           THE COURT: Thank you.

8           We're in recess.

9           (Recess.)

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1                   *(Change in reporter)*

2                   *(Open court)*

3                   THE COURT: Thank you. Please be seated.

4                   Your cross.

5                   MS. CHRISTILLES: Yes, Your Honor.

6                   CROSS-EXAMINATION

7 BY MS. CHRISTILLES:

8 Q. Good afternoon, Ms. Smith. My name's Jacquie Christilles,  
9 and I'm a U.S. Attorney here in San Antonio, Texas. And I  
10 represent the United States in this matter. Okay?

11 A. Okay.

12 Q. We've never met before, have we?

13 A. No.

14 Q. All right. I want to start by talking to you about the  
15 changes you noticed in Devin in the year or so before the  
16 shooting. Okay?

17 A. Okay.

18 Q. His mental health started to deteriorate in the last year  
19 of his life, didn't it?

20 A. Yes.

21 Q. In fact, in the last six months of his life, he grew more  
22 depressed?

23 A. Yes.

24 Q. His temper grew shorter?

25 A. Yes.

1 Q. He grew less tolerant?

2 A. Yes.

3 Q. He was slowly becoming not the person that he used to be?

4 A. Correct.

5 Q. He was shutting down?

6 A. What do you mean by "shutting down"?

7 Q. Ms. Smith, do you remember giving an interview to the

8 San Antonio Express-News?

9 A. Okay.

10 Q. Do you remember telling the San Antonio Express-News that

11 he was, quote, unquote, "shutting down"?

12 A. Oh, he's just wasn't, like, open about things.

13 Q. And that was in the last six months of his life?

14 A. Yes.

15 Q. You were actively trying to get Devin into some mental

16 health treatment, weren't you?

17 A. Yes.

18 Q. Everybody believed he needed it?

19 A. Yes.

20 Q. Even Devin wanted some mental health treatment?

21 A. Yes.

22 Q. He thought he might have some form of split personality

23 disorder or something?

24 A. Yes.

25 Q. Because he could be violent?

1 A. Yes.

2 Q. But he could also be loving and compassionate?

3 A. When he wanted to.

4 Q. Devin actually did start seeing a counselor, correct?

5 A. Yes.

6 Q. Now, he didn't disclose to you why he was going to that  
7 counselor, did he?

8 A. No.

9 Q. But he told you that he wanted to go talk to a counselor?

10 A. Yes.

11 Q. In the last two weeks of his life, he got some medicine  
12 for his mental health issues, correct?

13 A. Yes.

14 Q. He was prescribed clonazepam?

15 A. Yes.

16 Q. The clonazepam was to treat anxiety, correct?

17 A. Correct.

18 Q. In the last week of his life, he began abusing that  
19 clonazepam, didn't he?

20 A. Yes.

21 Q. Even though his mental health deteriorated, you had no  
22 idea he intended to commit this act, did you?

23 A. Correct. I didn't know.

24 Q. You never heard him say he wanted to kill anyone?

25 A. No.

1 Q. Sometimes he would write lists of people he didn't like,  
2 right?

3 A. That was only one time, way before, like years before the  
4 shooting happened.

5 Q. And it was really something the two of you did together,  
6 right?

7 A. Yes.

8 Q. And then you'd burn the list?

9 A. Yes. We put everything down. Because, in therapy, they  
10 teach you put everything -- anybody that ever wronged you or  
11 you felt like they wronged you, and you burn it to let it go.

12 Q. And so the two of you would write down people you maybe  
13 didn't like, and you would burn it as an act of therapy?

14 A. Yes.

15 Q. I want to talk to you a little bit more about what was  
16 going on in your lives in the year or so before the shooting.

17 In June of 2016, your stepsister reported that she had  
18 been sexually abused by -- I think you call him Curt  
19 Brassfield?

20 A. Yes.

21 Q. His real name is actually Donald Curt Brassfield, right?

22 A. Yes.

23 Q. And so in 2016, your stepsister reported that he had  
24 actually sexually abused her?

25 A. Yes.

1 Q. And I think we've talked about this.

2 Curt Brassfield was your adoptive father, correct?

3 A. Yes.

4 Q. And he also had adopted your stepsister, correct?

5 A. No. My sisters that are from Erin's side, they were not  
6 adopted. No, okay. I -- let me, rephrase.

7 So when they got placed in their care, it was not adoption  
8 at all. It was just placement. Erin, my mother, didn't adopt  
9 my sisters, Marissa and Hayley, until well after everything  
10 happened and Curt was no longer in the picture and he was  
11 placed in prison.

12 Q. Okay. And thank you for that clarification.

13 But your stepsisters were living with Erin and Curt  
14 Brassfield at some point?

15 A. Yes.

16 Q. Now, in addition -- we've talked about the fact that Curt  
17 Brassfield sexually abused you, and then you found out he  
18 abused your stepsister.

19 He had also sexually assaulted another girl in 2014,  
20 correct?

21 A. Yes.

22 Q. He was arrested for your stepsister's assault, correct?

23 A. Yes.

24 Q. And I think that you said he was out on probation at the  
25 time of the shooting?

1 A. So he got out of, I guess, probation or bail. So he was  
2 out. That's all I know.

3 Q. He was being prosecuted by the Guadalupe County DA's  
4 office for the sexual assault of your stepsister?

5 A. Yes.

6 Q. You were also a named victim in that prosecution, correct?

7 A. Yes.

8 Q. And you were set to testify at a trial about the abuse you  
9 endured at his hands?

10 A. Yes.

11 Q. You were subpoenaed to testify in that trial?

12 A. Yes.

13 Q. You were subpoenaed in about October of 2017?

14 A. I don't remember, like, exactly. Because I know they came  
15 out and talked. And then that's when I talked to the DA on  
16 the phone, but I had to have it on speaker.

17 Q. Okay. The trial was originally set for November 27th,  
18 2017, correct?

19 A. I guess. I don't really know. I just know, like, after  
20 the whole shooting happened, I know then, like, I was  
21 subpoenaed and went to court.

22 Q. But the trial was originally set for less than two weeks  
23 after the shooting, correct?

24 A. I guess so.

25 Q. Do you not recall, sitting here today, when that trial was

1 originally scheduled for?

2 A. I don't know when it was originally scheduled. Like, I  
3 don't know dates for the very first time or when Devin was in  
4 the picture.

5 Q. Ms. Smith, we've talked a little bit about the interview  
6 you had with the rangers, correct?

7 A. Yes.

8 Q. Do you recall telling the rangers the date that you were  
9 originally set to testify?

10 A. If I did, then that means it was fresh on my mind at that  
11 time.

12 Q. So looking at the testimony or the interview that you gave  
13 with the rangers would help you remember that date because it  
14 was closer in time, correct?

15 A. Yes.

16 Q. Okay. I'm going to show you JEX 477 at 092 -- 0092.

17 *(Discussion off the record)*

18 THE COURT: Go ahead.

19 BY MS. CHRISTILLES:

20 Q. Ms. Smith, I'm showing you a transcript of the interview  
21 you had with the rangers. Can you read through that to  
22 yourself and let me know when you're finished.

23 A. Okay.

24 Q. That refreshes your recollection about what date you were  
25 originally supposed to testify against Donald Brassfield,

1 correct?

2 A. Correct.

3 Q. And this was November 27th, less than two weeks after the  
4 shooting, correct?

5 A. Correct.

6 Q. Devin was not happy about you testifying, was he?

7 A. No.

8 Q. He forbid you to testify?

9 A. Yes.

10 Q. Now, it's fair to say that testifying about this abuse was  
11 going to be pretty traumatic for you, wasn't it?

12 A. Yes.

13 Q. You were going to have to relive all the pain during that  
14 prosecution, weren't you?

15 A. Yes.

16 Q. Now, the first time that you had reported that Donald  
17 Brassfield sexually assaulted you, you tried to kill yourself,  
18 didn't you?

19 A. Yes.

20 Q. And Devin knew about the abuse at the hands of Curt  
21 Brassfield?

22 A. Yes.

23 Q. He knew you'd tried to kill yourself?

24 A. Yes.

25 Q. He made you a promise that after you tried to take your

1 own life, he was always going to be there for you?

2 A. Yes.

3 Q. You tried to kill yourself in part because nobody believed  
4 you when you reported it; is that right?

5 A. Yes.

6 Q. In fact, some people treated you badly after you reported  
7 it?

8 A. Yes.

9 Q. Nobody listened, and you were the black sheep of the  
10 family?

11 A. Yes.

12 Q. Some of the people that didn't believe you and that  
13 treated you badly were members of the First Baptist Church of  
14 Sutherland Springs when the abuse occurred, correct?

15 A. That would only be that one family that I stated about.  
16 Everybody else, they were -- they were like family.

17 Q. But there were people that made fun of you for the abuse,  
18 correct?

19 A. It was one family, in particular, yes.

20 Q. Your testimony today is it was just one family, correct?

21 A. Yes. They no longer go to the church.

22 Q. You've been interviewed a lot for this case, haven't you,  
23 Ms. Smith?

24 A. Yes.

25 Q. Interviewed by the rangers?

1 A. Yes.

2 Q. You were interviewed by the Department of Defense Office  
3 of the Inspector General, correct?

4 A. Yes.

5 Q. Okay. And you gave a deposition in this case?

6 A. Yes.

7 Q. And you've also been interviewed by news media, right?

8 A. Yes.

9 Q. Now, when you gave that -- and do you mind if I call it  
10 "OIG" when I'm talking about the Department of Defense agents?

11 A. Okay.

12 Q. Okay. Can we agree that that's what I'm talking about?

13 A. Yes.

14 Q. Appreciate you not making me say that whole thing.

15 When you were interviewed by OIG, you were under oath,  
16 correct?

17 A. Yes.

18 Q. You told the OIG, quote, unquote, they mocked you and said  
19 I deserved it.

20 Do you remember telling them that?

21 A. Yes.

22 Q. They told you that you should have died when you tried to  
23 commit suicide.

24 Do you remember that?

25 A. Yes.

1 Q. Do you remember telling OIG some of the adults said you  
2 were a plague?

3 A. Yes.

4 Q. They didn't want their children hanging out with you?

5 A. Yes.

6 Q. They told you that you deserved to be raped and molested?

7 A. Yes.

8 Q. Someone's parents even said their daughter couldn't hang  
9 out with you because you were promiscuous?

10 A. Yes.

11 Q. Now, Devin knew that members of the church knew about the  
12 abuse, didn't he?

13 A. He knew about that one family, yes.

14 Q. He knew that some members had been awful to you when you  
15 reported the abuse?

16 A. Yes.

17 Q. Devin was angry about the way you had been treated, wasn't  
18 he?

19 A. He was just an angry individual.

20 Q. Ms. Smith, Curt Brassfield took pictures of the abuse of  
21 you, didn't he?

22 A. Yes.

23 Q. He took videos?

24 A. Yes.

25 Q. You found those photos and videos in Michelle Shields'

1 house, correct?

2 A. Yes.

3 Q. Devin was with you when you found them?

4 A. Yes.

5 Q. He was upset when he -- when you found those photos and  
6 videos?

7 A. Yes.

8 Q. Now, you claim that you found the photos and videos years  
9 before the shooting; is that right?

10 A. Yes.

11 Q. You claim you destroyed the photos and videos years before  
12 the shooting?

13 A. I did.

14 Q. And you destroyed them because no one had believed you  
15 about the abuse when you first told someone that it occurred,  
16 correct?

17 A. Correct.

18 Q. At some point the district attorney's office, the  
19 Guadalupe County DA's office that we talked about, learned  
20 about the photos and video, didn't they?

21 A. Yes.

22 Q. And you're aware that they learned about them from Erin  
23 Higgins, correct?

24 A. Yes.

25 Q. And Erin Higgins, I think we've already discussed, was

1 formerly Erin Brassfield?

2 A. Yes.

3 Q. And at one time she was married to Curt Brassfield?

4 A. Yes.

5 Q. And you've indicated that you were very close to Erin when  
6 she was married to Curt Brassfield, correct?

7 A. Yes.

8 Q. And you've remained close to her?

9 A. Yes.

10 Q. In fact, when Michelle Shields and Curt Brassfield got  
11 divorced, you actually wanted to live with Erin?

12 A. Yes.

13 Q. You wanted to live with Erin even though she was still  
14 married to Curt Brassfield?

15 A. Yes.

16 Q. At some point, you even ran away from Michelle Shields to  
17 live with Erin; is that correct?

18 A. Yes.

19 Q. Now, I think you indicated on direct that Devin would go  
20 over to Erin's house after he got out of the Air Force to see  
21 you; is that right?

22 A. Yeah. The one time when he came over and, like, he picked  
23 me up. And then that's when I moved out from her house.

24 Q. Okay. And he also came over to Erin's house to see you  
25 when he was 17 and you were 13; is that correct?

1 A. Yes.

2 Q. So it's fair to say Erin had known Devin Kelley for some  
3 time as well?

4 A. Not when I was seeing him when I was 13. She only, like,  
5 saw him and did a background check when I was 18, and I was  
6 living with her.

7 Q. Okay. Are you aware that Erin Higgins claims that Devin  
8 told her that he found the photos and videos at Michelle  
9 Shields' house on October 31st, 2017?

10 A. At the time I didn't know, until now.

11 Q. But you've since learned that Erin Higgins claims that  
12 Devin Kelley told her he found those photos and videos on  
13 October 31st, 2017?

14 A. Yes.

15 Q. Now, four days before the shooting, a detective came to  
16 your house, correct?

17 A. Correct.

18 Q. He came to your house to collect the photos and videos of  
19 the abuse, correct?

20 A. Yes.

21 Q. He came to your house because the Guadalupe County DA's  
22 office wanted those photos and videos for their prosecution?

23 A. Yes.

24 Q. So it's fair to say that that detective was coming to your  
25 home to get evidence, correct?

1 A. Yes.

2 Q. Devin was angry about the detective coming to the house,  
3 right?

4 A. Yes.

5 Q. He was angry because you'd already told the prosecutor  
6 that those things had been destroyed?

7 A. Yes.

8 Q. But he wasn't angry at you?

9 A. No. He was angry at the situation.

10 Q. Now, Devin was also angry about the situation because if  
11 people had believed you, two other girls wouldn't have gotten  
12 hurt; isn't that true?

13 A. Yes.

14 Q. Devin blamed a lot of people for what happened to you as a  
15 child?

16 A. I think he blamed everybody for everything.

17 Q. But he blamed a lot of people for what had happened to you  
18 as a child?

19 A. Yes.

20 Q. Devin had issues with the people at the church because of  
21 the abuse and treatment that you experienced as a kid?

22 A. No. He had an issue with my mom because he thought, in  
23 his eyes, that she was trying to break us up. Because he  
24 thought everybody was out against him.

25 Q. Now, Ms. Smith, you, again, recall that interview with the

1 rangers, correct?

2 A. Yes.

3 Q. Okay. So is it your testimony that -- today that Devin  
4 didn't have issues with the people at the church because of  
5 the abuse and treatment you experienced as a kid?

6 A. After that family, no. Like, there was only that one  
7 family that was an issue that he knew about. So everyone else  
8 in the church congregation, they weren't ones to make him  
9 upset.

10 Q. Ms. Smith, I'm going to play JEX 694, which has been  
11 previously admitted at 9709 through 9718.

12 Oh, wait. Hold on. Oh, no 8917 through 9312. Sorry.

13 MR. WEBSTER: Did you change the numbers?

14 MS. CHRISTILLES: Yes. I apologize. It's JEX 94.  
15 And we're going to do 8917 through 9312.

16 Was looking at the wrong line, Your Honor.

17 MR. WEBSTER: Thank you, ma'am.

18 MS. CHRISTILLES: Sorry about that.

19 (Pause)

20 (Playing video)

21 BY MS. CHRISTILLES:

22 Q. Ms. Smith, do you recall telling the rangers, in response  
23 to why you thought Devin might have gone to the church, that  
24 it had something to do with what had happened to you as a kid?

25 A. Yes.

1 Q. Now, besides being angry with the people at the church,  
2 Devin also resented God, didn't he?

3 A. Yes.

4 Q. He resented God for not protecting you?

5 A. He resented God because he was an atheist.

6 Q. He also resented God for not protecting you, correct?

7 A. I guess, using his terms.

8 Q. Isn't that what you told the San Antonio Express-News,  
9 Ms. Smith?

10 A. Yes.

11 Q. You also told the San Antonio Express-News that Devin  
12 resented God for not protecting him from the world's  
13 cruelties?

14 A. Yes.

15 Q. And you said Devin was a staunch atheist?

16 A. Yes.

17 Q. He thought religion was unfair?

18 A. Yes.

19 Q. He thought partially that religion was unfair because if  
20 babies weren't baptized, they would go to hell?

21 A. Yes.

22 Q. You ultimately testified at Donald Brassfield's trial,  
23 correct?

24 A. Yes.

25 Q. And it was a pretty horrible experience?

1 A. Yes.

2 Q. Donald Brassfield was ultimately convicted of sexual  
3 assault, correct?

4 A. Correct.

5 Q. I want to shift gears and talk to you a little bit more  
6 about Devin Kelley's character.

7 I think you indicated that you'd known him since you were  
8 13 years old?

9 A. Yes.

10 Q. Even after he joined the military, you still kept in touch  
11 with him?

12 A. Yes.

13 Q. You even kept in touch with him while he was in  
14 confinement in the Air Force, correct?

15 A. Yes.

16 Q. Now, it was your understanding that Devin was in  
17 confinement for abusing his stepson, correct?

18 A. No. That's -- he was -- he told me he was in confinement  
19 because he put a gun to his CO's head.

20 Q. But you later found -- or, at least, Devin told you later  
21 that he was in confinement for abusing his stepson, but he  
22 didn't do it; he did it to protect Tessa -- or he confessed to  
23 it to protect Tessa?

24 A. So him and his parents stated that it wasn't his handprint  
25 on Jack, that it was Tessa. And all of them told me that it

1 wasn't him. The reason why he got put in the brig was because  
2 he put a gun to his CO's head when he found Tessa and that CO  
3 in intercourse.

4 Q. But you also knew that there was some conversations about  
5 a handprint on Jack?

6 A. That's what they were just saying.

7 Q. Devin was a pretty determined guy, wasn't he?

8 A. Yes.

9 Q. I think on direct, you said he would call you constantly,  
10 he would message you constantly, he would stop by Erin's  
11 house, he wouldn't leave you alone?

12 A. Yes.

13 Q. When he set his mind to something, he followed through  
14 with it?

15 A. Yes.

16 Q. He had a determined side.

17 He also had a protective side, correct?

18 A. Yes.

19 Q. In fact, he bartered a shotgun for a dog that had been  
20 severely abused, right?

21 A. Yes.

22 Q. Now, he liked that shotgun, didn't he?

23 A. He liked it because I guess it was, like, kind of like a  
24 free gun.

25 Q. He used it to shoot bats?

1 A. Yes.

2 Q. He used it to shoot birds?

3 A. Yes.

4 Q. So he used that shotgun quite a bit?

5 A. Yes.

6 Q. When you got that dog, the two of you took care of it,  
7 didn't you?

8 A. I took care of the dog.

9 Q. You made sure the dog's ear and tail grew back?

10 A. Yes.

11 Q. Nursed that dog back to health?

12 A. Yes.

13 Q. And I think we just discussed this.

14 It was your belief, or what you had been told, that Devin  
15 had confessed to abusing Tessa's son to protect Tessa,  
16 correct?

17 A. Yes.

18 Q. You later found out that Devin had actually confessed to  
19 abusing Tessa's son, correct?

20 A. Yes.

21 Q. And that that's why he was in confinement?

22 A. Yes.

23 Q. Now, your friend Emily from Colorado, you told her about  
24 the abuse allegation, correct?

25 A. I didn't tell her.

1 Q. How else would Emily have found out about it?

2 A. It would have been a conversation between her and Devin.

3 Q. Okay. I think we've talked about this a lot, but Devin  
4 also had an abusive side?

5 A. Yes.

6 Q. You later found out that he had been physically abusive  
7 with Tessa?

8 A. Yes.

9 Q. Much like how he had physically abused you?

10 A. Yes.

11 Q. You actually knew that Devin was abusive before you  
12 married him, didn't you?

13 A. Yes.

14 Q. In fact, two months before you were married, you called  
15 the police because he was abusing you?

16 A. No. That's not correct. I did not call the police.

17 Q. Somebody found out that he was abusing you two months  
18 before your marriage, correct?

19 A. Yes.

20 Q. Someone called the police?

21 A. Yes.

22 Q. And the police showed up?

23 A. Yes.

24 Q. But you still married Devin two months later?

25 A. Yes.

1 Q. Devin was also controlling?

2 A. Yes.

3 Q. The only time you were allowed to use the phone was when  
4 he allowed you to use it?

5 A. Correct.

6 Q. You weren't allowed to make calls to anyone unless he told  
7 you it was okay?

8 A. Yes.

9 Q. When you made calls, the other person had to be on  
10 speakerphone?

11 A. Yes.

12 Q. So it's fair to say if you messaged anyone via cellphone,  
13 there was a good chance Devin was going to find out?

14 A. Yes.

15 Q. He'd see those messages?

16 A. If he found out, yes, he would find them.

17 Q. And that actually happened a couple of times, right?

18 A. Yes.

19 Q. Devin also had problems with obeying the law, didn't he?

20 A. Yes.

21 Q. You were aware of several occasions where he got in  
22 trouble for violating the law?

23 A. Yes. The one with the dog.

24 Q. He also got in trouble for using marijuana in 2006,  
25 correct?

1 A. Yes.

2 Q. You knew that he used K2 -- or it's also called Spice --  
3 when he was in the Air Force?

4 A. Yes.

5 Q. And he knew it was illegal to use Spice in the Air Force?

6 A. Yes.

7 Q. But he did it anyway?

8 A. Yes.

9 Q. He only stopped, not because he thought he'd get caught,  
10 but because he got too high?

11 A. Yeah.

12 Q. He also did whippets in the Air Force?

13 A. No. The whippets were when him and I were married.

14 Q. Okay. After the Air Force, he obtained Xanax illegally?

15 A. Yes.

16 Q. Once he received -- we've talked about his clonazepam  
17 prescription.

18 Once he got that prescription, he still kept using the  
19 Xanax, correct?

20 A. Yes.

21 Q. He would double dose on the clonazepam and Xanax?

22 A. Yes.

23 Q. He would also abuse your medication?

24 A. Yes.

25 Q. We've talked about the Fioricet for your migraines that he

1 would abuse.

2       But he also abused some muscle relaxers you had, correct?

3 A. Yes.

4 Q. He would take six of those muscle relaxers at a time?

5 A. Yes.

6 Q. We talked about the time he got in trouble for abusing the  
7 dog in Colorado, correct?

8 A. Yes.

9 Q. In 2010, he was also accused of sexual assaulting a girl,  
10 correct?

11 A. I didn't know about that until this whole court stuff's  
12 going on.

13 Q. After his time in the Air Force, Devin Kelley started  
14 associating with the Bandidos, correct?

15 A. Yes.

16 Q. He wanted to be a member of the Bandidos?

17 A. Yes.

18 Q. The Bandidos is a motorcycle club known to be violent?

19 A. Yes.

20 Q. The Bandidos are known for their criminal activity?

21 A. Yes. They're considered an outlaw group.

22 Q. And Devin wanted to be a member of that outlaw group?

23 A. Yes.

24 Q. After his time in the military, Devin developed an  
25 interest in firearms while you were in Colorado, correct?

1 A. Yes.

2 Q. He also wanted to have his own shooting school?

3 A. Yes.

4 Q. When he was looking at having a shooting school, it was  
5 your understanding that he wanted to teach people that guns  
6 aren't all bad?

7 A. Yes.

8 Q. He wanted to show people that guns aren't the cause of bad  
9 things?

10 A. Yes.

11 Q. That the person who carries out the act is the one at  
12 fault?

13 A. Yes.

14 Q. He also took an interest in parts for guns?

15 A. If you're talking about, like, he wanted to do designs on,  
16 like, the plastic part where you hold, then, yes.

17 Q. He started ordering things for guns online?

18 A. No. He -- oh, okay. He ordered the thingy you put on you  
19 and you, like, stick your gun in. You know what I'm talking  
20 about?

21 Q. The holster or the sling?

22 A. Sure. Yeah. That stuff.

23 Q. Okay.

24 A. He ordered that stuff.

25 Q. So he didn't start ordering things for guns online?

1 A. The only thing he ordered was he -- I think it's like a  
2 sleeve. I don't know. You, like, pull it up, like, the  
3 handle and you can, like -- I think you get a thing and you  
4 can, like, burn on it to design it. You know?

5 Q. No, I don't. But that's okay. Thank you for trying to  
6 describe it to me.

7 What I'm asking about is, during your deposition, you  
8 talked about him ordering things for guns online.

9 Do you remember talking about that?

10 A. Okay.

11 Q. Okay. And during your interview with OIG, you told the  
12 OIG that Devin took an interest in parts for guns.

13 Do you recall that?

14 A. Okay. Then, if that's it, then it'd be like the little  
15 thing on the top that you can look through. It's -- it's like  
16 a magnifying glass.

17 Q. Maybe like the scope?

18 A. Yeah, that.

19 Q. Okay.

20 A. And then I guess the thing that you attach at the end to,  
21 like, put it around your body, like that stuff, partwise.

22 Q. Okay. So it's fair to say he was ordering parts for guns  
23 online?

24 A. Yes.

25 Q. He would spend what little money you had on guns and

1 ammunition, wouldn't he?

2 A. Yes.

3 Q. Even if that meant you would do without?

4 A. Yes. I was used to it.

5 Q. Devin loved guns?

6 A. Yes.

7 Q. He babied his guns?

8 A. Yes.

9 Q. He loved taking them apart?

10 A. He would clean them.

11 Q. He also loved taking them apart and comparing the  
12 specifications to newer models, correct?

13 A. Yeah. He wanted to make sure his gun was top of the line.

14 Q. He weighed the parts for his guns?

15 A. Oh, I don't know if he weighed them. I just know he  
16 wanted to make sure nothing would break.

17 Q. He was always cleaning them, I think you just said?

18 A. Yes.

19 Q. He also cleaned his parents' guns, didn't he?

20 A. I know one time he cleaned them because he said if they  
21 get like -- I don't want to say jammed. But, like, if you  
22 don't -- he said if you don't clean them properly, they won't  
23 work.

24 Q. So you know he cleaned his parents' guns?

25 A. Yeah. Like, one time he did, I guess, like trying to

1 teach them how to do it.

2 Q. Now, Devin's dad had tools, correct?

3 A. Yeah. He had a garage for tools.

4 Q. Because he was --

5 A. Normal tools.

6 Q. What's that?

7 A. Normal tools.

8 Q. He was always remodeling his house, wasn't he?

9 A. Yes.

10 Q. So it's fair to say he had a lot of tools?

11 A. Yes.

12 Q. Now, Devin did nonstop research on guns, didn't he?

13 A. Yes.

14 Q. He looked up the AR-15 online?

15 A. Yes.

16 Q. He looked up the AR-15 at gun shows?

17 A. Yes.

18 Q. And then when he got the AR-15, he shot it almost daily?

19 A. Yes.

20 Q. Devin liked going to gun shows, didn't he?

21 A. Yes.

22 Q. He went to gun shows a lot?

23 A. Yes, when we were in Colorado.

24 Q. And that's right.

25 A. Ms. Smith, on direct, you testified that he only went to

1 gun shows in Colorado. Is that your testimony?

2 A. Yes.

3 Q. Do you recall giving a deposition in this case, Ms. Smith?

4 A. Yes.

5 Q. And you wanted to be honest during that deposition,  
6 correct?

7 A. Yes.

8 Q. I think in direct, you said, "It was the first time I  
9 really told the truth."

10 A. Yes.

11 Q. I'm going to show you -- so it's your testimony today that  
12 Devin only went to gun shows in Colorado, correct?

13 A. As far as I believe, yes.

14 Q. You never would have said that he also went to gun shows  
15 in Texas?

16 A. I mean, if he did, then he did. I just know -- most of  
17 what I remember is they were up in Colorado because they were  
18 easy to get to because they're, like, close by to where we  
19 lived.

20 Q. Ms. Smith, did Devin Kelley go to gun shows in Texas?

21 A. If he did, then he did. I don't really remember.

22 Q. I'm going to show you Government Exhibit 53, page 121,  
23 lines 14 through 15.

24 THE COURT: It's not been admitted yet.

25 MS. CHRISTILLES: Correct, Your Honor.

1           THE COURT: So you can take it down.

2           MS. CHRISTILLES: Okay.

3           THE COURT: If you want to move for the admission,  
4 then you can display it.

5           MS. CHRISTILLES: Your Honor, I'm using it for  
6 purposes of impeachment.

7           Is there a different way you would like me to do that?

8           THE COURT: So it's not going to be admitted; it's  
9 just for impeachment purposes only?

10          MS. CHRISTILLES: That's correct. I did not intend  
11 to offer it.

12          THE COURT: Go ahead.

13          MS. CHRISTILLES: May I put it back up on the screen,  
14 Your Honor?

15          THE COURT: Yes.

16          MS. CHRISTILLES: I apologize for not being clear  
17 about that.

18          *(Discussion off the record)*

19 BY MS. CHRISTILLES:

20 Q. Ms. Smith, do you remember being asked a question by  
21 Mr. Stern about gun shows? This was in Colorado and in Texas.

22 A. Yes.

23 Q. And do you recall answering yes?

24 A. Yes.

25 Q. Thank you.

1           So, Ms. Smith, Devin Kelley went to gun shows in Texas,  
2 too, didn't he?

3 A. During that time, in the question, all I heard was "this  
4 was in Colorado." And I said yes.

5 Q. You weren't always paying attention to what Devin Kelley  
6 did at gun shows, were you?

7 A. No.

8 Q. Because you were caring for your children?

9 A. Yes.

10 Q. To your knowledge, Devin didn't purchase a firearm at a  
11 gun show?

12 A. Correct.

13 Q. But he did buy a gun from a friend in Colorado?

14 A. No. He bought a gun from a Colorado shop.

15 Q. Is it your testimony today that he did not buy a gun from  
16 a friend in Colorado?

17 A. He never once bought a gun in Colorado from a friend. The  
18 only time he bought a gun from a friend was when he got out of  
19 the military, and that would have been in Texas.

20 Q. So you never would have testified that he bought a gun  
21 from a friend in Colorado?

22 A. No. Because it was not in Colorado. The only time he  
23 bought a gun in Colorado was from a gun store.

24 Q. Ms. Smith, again, do you recall giving a deposition in  
25 this case?

1 A. Yes.

2 Q. And you recall being under oath?

3 A. Yes.

4 Q. And you wanted to tell the truth during that deposition,  
5 correct?

6 A. Yes.

7 Q. Okay. I'm going to show you Government Exhibit 53,  
8 line 122 -- or page 122. Start at 7 through 25.

9 So here in this deposition, Mr. Stern is asking you about  
10 your testimony to the OIG. And he confirms with you, "Is that  
11 accurate? He bought a gun from a friend?" And your answer is  
12 yes.

13 MR. WEBSTER: I'll object, Your Honor, under optional  
14 completeness, and also that it mischaracterizes the testimony  
15 and question that was actually posed to the witness.

16 THE COURT: You can clean it up on redirect.

17 MR. WEBSTER: Thank you, Your Honor.

18 MS. CHRISTILLES: And we can go to JEX 157.

19 BY MS. CHRISTILLES:

20 Q. Ms. Smith, this was your testimony to the OIG, which was  
21 also referenced in your deposition where Mr. Stern was talking  
22 to you about that gun.

23 And you said to the OIG, "It started when we were in  
24 Colorado, really majorly in Colorado. So he bought -- so  
25 after he got out of the military, he bought a gun from his

1 friend."

2 Do you recall telling the OIG that?

3 A. Yes.

4 Q. And then confirming that in your deposition?

5 A. Yes, that his major gun interest was in Colorado. But he  
6 did not buy a gun from a friend in Colorado. That was  
7 strictly a Texas thing.

8 Q. That he bought a gun from a friend?

9 A. Yes. That was in Texas. After he got out of the  
10 military, he was in Texas. He was never in Colorado after he  
11 got out of the military, straight after.

12 Q. Okay. Ms. Smith, but he bought a gun from a friend?

13 A. Yes.

14 Q. Okay. He also bartered for a shotgun -- he also bartered  
15 for a shotgun, correct?

16 A. Yes.

17 Q. A 12-gauge shotgun?

18 A. Yes.

19 Q. He bartered for the shotgun online?

20 A. Yes.

21 Q. I'm showing you what has been admitted as JEX 687. Wait.  
22 Do you recognize what's depicted in this picture?

23 A. Yes.

24 Q. That's the shotgun that Devin Kelley bartered for online,  
25 correct?

1 A. Yes.

2 Q. Showing you JEX 500 at 0036.

3 This is a picture of Devin with that shotgun, isn't it?

4 A. It's not on my screen.

5 Q. Oh. That's not good. Is anything showing on your screen,  
6 Ms. Smith?

7 A. Yes.

8 Q. What's up on your screen right now?

9 A. It's of him and the shotgun.

10 Q. Okay. Do you see the picture of Devin Kelley with a  
11 shotgun over his shoulder on your screen?

12 A. Yes.

13 Q. Is that the same shotgun he bartered for online?

14 A. Yes.

15 Q. It's the shotgun he used to shoot bats?

16 A. Yes.

17 Q. Used to shoot birds?

18 A. Yes.

19 Q. At some point, he exchanged that gun on Craigslist for a  
20 dog, correct?

21 A. Yes.

22 Q. I'm going to talk about some of Devin Kelley's other  
23 purchases related to guns.

24 On October 28th, 2017, just a week before the shooting,  
25 Devin purchased two 100-round drum magazines, correct?

1 A. Yes.

2 Q. He'd seen an advertisement on Facebook for these  
3 magazines?

4 A. I guess. I don't know. I just know he took us there and  
5 said he was buying it. I didn't have a say in it.

6 Q. He took you to the Hill Country Truck and Gun Store,  
7 correct?

8 A. Yes.

9 Q. To purchase those magazines?

10 A. Yes.

11 Q. Devin told you he was buying them to resell them, correct?

12 A. Yes.

13 Q. Are you aware that he actually returned those drums  
14 because they didn't fit his AR-15?

15 A. I know he said he was having problems with them, but  
16 that's as far as I know.

17 Q. And he ordered new ones?

18 A. Oh, I don't know.

19 Q. Okay. He actually -- are you aware he actually called the  
20 Hill Country Truck and Gun Store every single day leading up  
21 to the shooting to see if those drums were in?

22 A. Oh, I didn't know.

23 Q. He also purchased body armor online?

24 A. I mean, I guess. I don't know. He bought a lot of stuff.  
25 I wasn't allowed to look at the bank statements or what he

1 bought or anything.

2 Q. He tried to conceal those purchases from you, didn't he?

3 A. Yes.

4 Q. He made a purchase from LA Police Gear?

5 A. Oh, I have no idea.

6 Q. That's right. Because he concealed those purchases from  
7 you, correct?

8 A. Yes.

9 Q. It's fair to say that he kept purchases -- a lot of  
10 purchases from you?

11 A. Yes.

12 Q. But you were with Devin when he purchased the AR-15 at  
13 Academy, correct?

14 A. Yes.

15 Q. He made that purchase after he was turned down at Dick's  
16 Sporting Goods?

17 A. Yes.

18 Q. He was turned down at Dick's Sporting Goods because he had  
19 a Colorado driver's license, correct?

20 A. Yes.

21 Q. He purchased the gun at Academy after the manager overrode  
22 the Colorado ID issue, correct?

23 A. Yes.

24 Q. The store clerk needed to call a manager over before Devin  
25 was able to purchase the AR-15, correct?

1 A. Yes.

2 Q. You weren't concerned about all his purchases, were you?

3 A. How could I keep track if he didn't tell me anything?

4 Q. And because you had no idea that he was prohibited from  
5 buying guns?

6 A. Correct. I didn't know he wasn't allowed to have guns --

7 Q. You also --

8 A. -- until now, for court.

9 Q. Right.

10 You also weren't concerned because, quote, unquote, "guns  
11 are everywhere in Texas"?

12 A. They are.

13 Q. Devin Kelley also urged his father to buy an AR-556,  
14 correct?

15 A. Yes.

16 Q. And when I say "AR-556," it's just a brand of AR-15,  
17 correct?

18 A. Oh, I don't know anything about guns. I just know it  
19 looks like his.

20 Q. He urged his father to buy a gun that looked just like  
21 his?

22 A. Yes.

23 Q. His father actually bought that gun at Cabela's, correct?

24 A. Yes.

25 Q. Devin was with him?

1 A. All of us were together.

2 Q. That's right. The whole family went to Cabela's to buy  
3 this gun?

4 A. Yes.

5 Q. Ms. Smith, I want to shift gears and move towards the  
6 weeks leading up to the shooting. Okay?

7 A. Okay.

8 Q. On October 31st, 2017, you, Devin, and your daughter went  
9 to the fall festival at Sutherland Springs Baptist Church,  
10 didn't you?

11 A. Yes.

12 Q. It was Devin's idea to go to the church that day?

13 A. No. He let me go. It'd be the first time my family would  
14 get to meet my daughter at five months old.

15 Q. But it was his idea to go?

16 A. No. I had to beg him. Like, he said, you know, I could  
17 go and see her.

18 Q. Ms. Smith, is it your testimony here today that it was not  
19 Devin's idea to go to the church that day?

20 A. No. I had to beg him, and he allowed me to go. Like, he  
21 said okay. Like, it wasn't like a fight or anything.

22 Q. So you never would have said it was Devin's idea to go to  
23 the church that day?

24 A. No. I wanted to go to see my mom. Like, I got to earn  
25 that privilege from him.

1 Q. Ms. Smith, we've talked a lot about that ranger interview,  
2 and I want to set the stage a little bit for that ranger  
3 interview.

4 That happened just hours after the shooting, didn't it?

5 A. Yes.

6 Q. You didn't know all the details of what had happened that  
7 day, did you?

8 A. No.

9 Q. You didn't know that so many people had been killed?

10 A. No.

11 Q. You really didn't even know Devin's involvement in all of  
12 it?

13 A. No. I'll take -- no. So when he called, that's when he  
14 told us that he killed everybody. But as far as everything  
15 else, I didn't know anything besides him going and saying that  
16 he shot up the church and killed people.

17 Q. And that interview was on the day of the shooting?

18 A. Yes.

19 Q. It was on November 5th, 2017?

20 A. Yes.

21 Q. So if you were talking about events that happened on  
22 October 31st, 2017, it's fair to say that your memory on  
23 November 5th was probably better than it is today, correct?

24 A. Yes.

25 Q. But today you're telling us you never would have said it

1 was Devin's idea to go to the church that day?

2 A. On the 31st? No. Because I wanted to go.

3 Q. Okay. I'm going to show you JEX 477 at -- let's go to  
4 102. And we're going to go through a little bit of this to  
5 give you context. Okay? So we'll start at -- marked as  
6 page 102 and start at line 20. We're talking about Halloween.

7 October 31st, 2017, is also Halloween; is that right,  
8 Ms. Smith?

9 A. Yes.

10 Q. Okay. So when you're -- if you're talking about  
11 Halloween, you would be talking about the fall festival on  
12 October 31st, 2017?

13 A. Yes.

14 Q. Okay. So we're talking about Halloween. Let's go to the  
15 next page.

16 All right. And so do you see where you tell the rangers  
17 it was his idea to go over?

18 A. Okay.

19 Q. So, Ms. Smith, you actually did tell the rangers that it  
20 was Devin's idea to go to the fall festival, correct?

21 A. Yes.

22 Q. Now, you'd stopped being a member of the church when you  
23 were 18, correct?

24 A. Yes.

25 Q. Even when you were a member, you were in and out?

1 A. Yes.

2 Q. The only time you were really active was during Vacation  
3 Bible School?

4 A. Vacation Bible School and Sunday school.

5 Q. When you went for the fall festival, it was the first time  
6 you'd been back to the church in several years, correct?

7 A. For a while, yes.

8 Q. Because you'd only gone a handful of times during your  
9 marriage to Devin?

10 A. Correct.

11 Q. You called your mom the day before to ask her if you could  
12 come out for the fall festival?

13 A. Yes.

14 Q. And when we say your mother, I'm talking about Michelle  
15 Shields?

16 A. Yes.

17 Q. Okay. You hadn't seen Michelle Shields, your mother,  
18 since before the birth of your daughter in May of 2017,  
19 correct?

20 A. Correct.

21 Q. You were going to cut off the relationship with your  
22 mother that day?

23 A. That's what he wanted.

24 Q. Devin wanted you to cut off the relationship with your  
25 mother that day?

1 A. Yes.

2 Q. And that was the plan?

3 A. He said I had to go and, you know, try and make things  
4 right between her. And then we talked for a little bit, and  
5 then we left. Like, it was a very short visit.

6 Q. Your mom got to see your daughter?

7 A. Yes.

8 Q. And Devin actually left you alone with your mother for a  
9 little bit, didn't he?

10 A. Yes.

11 Q. That was really unusual?

12 A. Yeah.

13 Q. Fair to say that that was the first time you'd been left  
14 alone with your mother since you'd been married to Devin  
15 Kelley?

16 A. Correct.

17 Q. As you were getting ready to leave, your mother told Devin  
18 she loved him?

19 A. Yes.

20 Q. He told her he loved her, too?

21 A. Yes.

22 Q. During the fall festival, Devin was acting like something  
23 was on his mind, correct?

24 A. Yes.

25 Q. He was really quiet?

1 A. Yes.

2 Q. Now, Ms. Smith, you indicated that you asked Devin for a  
3 divorce the night before the shooting?

4 A. Yes.

5 Q. You indicated that the reason that you asked him for a  
6 divorce, on direct examination, was you'd found a video of him  
7 cheating on you?

8 A. Yes.

9 Q. Ms. Smith, we've talked about all the times you've been  
10 interviewed for this case, correct?

11 A. Yes.

12 Q. Interviewed by the rangers on the day of the shooting?

13 A. Yes.

14 Q. Interviewed by OIG?

15 A. Yes.

16 Q. Gave a deposition in this case?

17 A. Yes.

18 Q. And, again, during that deposition, on direct, you said it  
19 was the first time that you really could tell the truth,  
20 correct?

21 A. Yes.

22 Q. Interviewed by the news media?

23 A. Yes.

24 Q. Ms. Smith, not in a single statement did you ever say that  
25 the reason that you were leaving Devin Kelley or that you had

1 asked him for a divorce was because of this video, did you?

2 A. No.

3 Q. First time that ever came up was today during direct  
4 examination?

5 A. No. That would have been -- I told him I wanted to leave  
6 because he was cheating on me, and I was tired of being a  
7 punching bag.

8 Q. That's what you're testifying that you told Devin Kelley?

9 A. Yeah. That would have been when I talked to Webster to  
10 come in and give my statement that one time, that I told him I  
11 wanted a divorce.

12 Q. Okay. And, Ms. Smith, if I'm confusing you, I apologize.

13 The first time that you have ever told anybody about a  
14 video of Devin Kelley cheating on you was today on direct  
15 examination?

16 A. Okay.

17 Q. In fact, when you were talking about asking him for a  
18 divorce the night before the shooting -- and I do want to get  
19 back to that -- in your deposition, you said the reason was  
20 you didn't want your daughter to think it was okay to be  
21 abused by a man?

22 A. Correct.

23 Q. Nothing about a video?

24 A. Nope.

25 Q. In fact, your deposition was actually the first time you

1 ever told anybody that you told Devin the night before the  
2 shooting that you wanted a divorce, wasn't it?

3 A. No. That would have been when I went and talked to  
4 Webster, that I wanted a divorce around the time of him, like,  
5 taking my -- I guess, an affidavit for everything.

6 Q. Ms. Smith, is it your testimony that you told Mr. Webster  
7 that you had asked Devin Kelley for a divorce the night before  
8 the shooting?

9 A. Yes.

10 Q. But you never told the rangers?

11 A. No.

12 Q. Never told OIG?

13 A. Nope. How can you tell somebody that when his parents are  
14 in the room with you?

15 Q. But I'm confused, Ms. Smith, because, on direct, you told  
16 us that they already knew about the divorce.

17 A. Yeah. There was a conversation about it. But when you  
18 lead up to that, how can you bring up the conversation of  
19 their son being abusive when they wouldn't tell me the truth  
20 about why he went to the brig?

21 Then there's the fact that even then, when you told --  
22 when I told them that his -- when I talked to the rangers the  
23 one time and said I found him cheating multiple times, and his  
24 father will be like, "Oh, that's news to me."

25 Q. All right. Ms. Smith, let's break this down a little bit.

1 Okay?

2 On direct, you told us that Mr. and Mrs. Kelley knew  
3 before the shooting that the two of you were looking to get  
4 divorced, correct?

5 A. Yes.

6 Q. So they knew before you went into that rangers' interview  
7 that you and Devin were looking at getting a divorce?

8 A. Yes. It's the reason why he was asking them to watch the  
9 kids.

10 Q. Okay. But when the rangers were talking to you and they  
11 specifically asked you if you had any problems in your  
12 marriage, your testimony today is that you didn't feel like  
13 you could tell the rangers that you had asked for a divorce  
14 because Michael Kelley was in the room?

15 A. Yeah. I don't like conflict, and I was still living with  
16 them. You know how uncomfortable that would have been?

17 Q. So when the rangers specifically asked you if you had any  
18 problems in your marriage, you told them Devin was not a bad  
19 guy?

20 A. Yep.

21 Q. You did tell them that Devin had cheated on you?

22 A. Yes.

23 Q. But you'd worked it out?

24 A. Yep.

25 Q. And everything was fine?

1 A. Yes.

2 Q. And then you were interviewed by the Department of Defense  
3 Office of Inspector General, the OIG, on May 15th, 2018?

4 A. Yes.

5 Q. And you didn't tell them that you had asked Devin for a  
6 divorce the night before the shooting, did you?

7 A. No, because Mr. Kelley was there.

8 Q. But you said a lot of things during that interview that  
9 Mr. Kelley didn't know about, didn't you?

10 A. Yep.

11 Q. You told the agents that Devin attempted to kill himself  
12 at one point?

13 A. Yes.

14 Q. Mr. Kelley didn't know about that?

15 A. Nope.

16 Q. You told the OIG that Devin was doing whippits?

17 A. Yes.

18 Q. And Mr. Kelley didn't know about that?

19 A. Nope.

20 Q. Now, on direct examination, you said that when you  
21 allegedly told Devin the night before the shooting that you  
22 wanted a divorce, that he knew it was for real this time  
23 because you tried fighting back, correct?

24 A. Yes.

25 Q. But you also testified on direct that there were times

1 that you had tried to fight him off, right?

2 A. Yep.

3 Q. So this wouldn't have been the first time you fought back?

4 A. No.

5 Q. Ms. Smith, you testified on direct examination that you  
6 think that you asking for a divorce was what caused this  
7 shooting, right?

8 A. Yes.

9 Q. But that's not what you told the rangers, is it?

10 A. Nope.

11 Q. In fact, we saw a video where you told the rangers it was  
12 because of what had happened to you as a child?

13 A. Yep.

14 Q. That's also what you told OIG, isn't it?

15 A. Yes.

16 Q. You told the OIG, "Devin knew that, during the process of  
17 the abuse I went through, that the church and her knew and  
18 they made fun of me for it"?

19 A. Yep. That would be in reference to that one family.

20 Q. But you didn't tell the OIG it was just one family, did  
21 you?

22 A. They never asked. If y'all would ask, I would answer the  
23 question.

24 Q. You didn't tell the rangers it was just one family, did  
25 you?

1 A. They didn't ask.

2 Q. You used the term "they" with the rangers?

3 A. As in the family.

4 Q. And you used "parents," plural, with the rangers, correct?

5 A. As in that person's mother and father.

6 Q. Now, we've also discussed that you were interviewed by

7 several media outlets, correct?

8 A. One news media outlet.

9 Q. Sure. The San Antonio Express-News?

10 A. Yes.

11 Q. You didn't tell the Express News that you had asked for a

12 divorce the night before the shooting, did you?

13 A. Because they didn't ask, and they have their own

14 narrative.

15 Q. You also had some Facebook conversations with one of the

16 plaintiffs in this case, correct?

17 A. I guess.

18 Q. Charlene Uhl?

19 A. Yes.

20 Q. You told Charlene Uhl you had no idea why Devin committed

21 this shooting?

22 A. I mean, what do you tell the families? A lot of the

23 families really do not care what I have to say, the ones --

24 besides the ones who are really nice. There are some that

25 blame me for the reason why their family died. I carry that.

1       What's the point in trying to explain to people my side  
2 when nobody listens?

3 Q. Charlene doesn't blame you, does she?

4 A. No. She's really sweet. But it's not something to tell  
5 her. She doesn't need to understand or know. I just tell her  
6 I'm sorry because I will always, always carry that burden.

7 Q. Now, I think on direct examination that -- you had asked  
8 for a divorce from Devin lots of times, correct?

9 A. Yep.

10 Q. The first time was when he hit you and he caused you to  
11 lose your first pregnancy?

12 A. We weren't married during -- when I lost my first  
13 pregnancy.

14 Q. One time you told him that you wanted a divorce was around  
15 the time when your son was about a year old?

16 A. Yes.

17 Q. And in response to that, he became abusive and took your  
18 tablet away?

19 A. Yes.

20 Q. And I think we saw some text messages that you were able  
21 to identify as text messages with Erin, correct?

22 A. Yes.

23 Q. And in those text messages, you're also talking about  
24 divorce, correct?

25 A. Yes.

1 Q. I want to take a look at those text messages, which have  
2 been previously admitted as JEX 478B, page 4.

3 And we've established that these messages are with Erin  
4 Higgins, correct?

5 A. Yes.

6 Q. And Erin is telling you, "And either go live with Michelle  
7 or find a shelter to start your life," correct?

8 A. Yes.

9 Q. And these messages occurred in 2015?

10 A. Oh, I don't know. There's not a timestamp. I have no  
11 idea.

12 Q. Sure. Let's go back to page 1.

13 Do you see the date on those text messages?

14 A. Yes.

15 Q. So these messages would have occurred in 2015?

16 A. Yes.

17 Q. You were having conversations with Erin via text message  
18 about divorcing Devin?

19 A. Yes.

20 Q. And she suggested you go live with Michelle?

21 A. Or a woman's shelter. But how can you leave when they  
22 block everything? And I barely had time to message her.

23 Q. Ms. Smith, it's fair to say that you want to help the  
24 plaintiffs in this case, don't you?

25 A. Yes.

1 Q. Even though you stopped going to the church when you were  
2 18, you knew many of the victims of the shooting?

3 A. Yes, I did.

4 Q. You'd volunteer at the church?

5 A. Yes. Many of the babies that died, I babysat them.

6 Q. You lost your grandmother?

7 A. Yes.

8 Q. And your mother, Michelle Shields, is actually employed by  
9 the First Baptist Church of Sutherland Springs currently,  
10 isn't she?

11 A. Yes.

12 Q. Been employed there since 2018?

13 A. I don't know when she got employed. I just know she works  
14 for them.

15 Q. You've attended services at the church since the shooting?

16 A. I've gone, I think, twice. Once was on the year  
17 anniversary to go, and then I think maybe one time before  
18 that. Other than that, I don't go.

19 Q. And I think you were talking about this when we were  
20 talking about those messages with Charlene.

21 You carry a lot of sorrow for those victims?

22 A. Yes.

23 Q. You carry the shame from Devin?

24 A. Yes. Because everybody died so I could be free of him.  
25 And that's sad.

1 Q. Prior to this trial, you discussed the purchase of guns  
2 with the attorneys for the families because you wanted to help  
3 them, correct?

4 A. Yes.

5 Q. Mr. Webster was one of those attorneys?

6 A. Yes.

7 Q. You signed an affidavit regarding the purchase of the  
8 firearms?

9 A. Yes.

10 Q. Someone associated with Mr. Webster drafted your  
11 statement?

12 A. Yes.

13 Q. They drafted it the day you met with them?

14 A. Yes.

15 Q. And besides Mr. Webster, several other attorneys for the  
16 families were there, correct?

17 A. Yes.

18 Q. Ms. Smith, I want to shift to the morning of the shooting.  
19 Okay?

20 A. Okay.

21 Q. That morning, Devin Kelley asked you to make him a light  
22 breakfast, correct?

23 A. Yes.

24 Q. That was kind of unusual, right?

25 A. Yeah.

- 1 Q. He likes to eat a little more than a light breakfast?
- 2 A. Yeah. He eats a lot.
- 3 Q. He then either went to his parents' house or texted his
- 4 parents about watching the children, correct?
- 5 A. Yes.
- 6 Q. At some point, he restrained you?
- 7 A. Yes.
- 8 Q. He made it so you couldn't leave the room?
- 9 A. Yes.
- 10 Q. He put a gun to your head?
- 11 A. Yes.
- 12 Q. But he didn't hit you?
- 13 A. That would have been before Sunday. He didn't hit me on
- 14 Sunday. He drug me by my hair.
- 15 Q. He didn't tell you he was going to kill you?
- 16 A. No.
- 17 Q. He didn't tell you he was going to make you pay for
- 18 leaving him?
- 19 A. Not when he was tying me up.
- 20 Q. Instead, he pulled out a black box?
- 21 A. Yes.
- 22 Q. And you'd seen that black box before?
- 23 A. Yes.
- 24 Q. The black box had been in your home for a while?
- 25 A. Yes.

1 Q. But he strictly forbid you from touching that black box,  
2 correct?

3 A. Correct.

4 Q. You weren't allowed to even touch it?

5 A. Nope.

6 Q. He took everything out of that black box?

7 A. Yes.

8 Q. And you'd never seen a lot of the things in there?

9 A. Correct.

10 Q. You'd never seen the ballistic vest?

11 A. No.

12 Q. That vest already had a lot of things on it?

13 A. Yes.

14 Q. He took a mask out from the box?

15 A. Yes.

16 Q. A mask resembling the Marvel anti-hero, The Punisher?

17 A. Yes.

18 Q. He put that mask on?

19 A. Yes.

20 Q. While he was doing this, he kept saying he was sorry?

21 A. If I said that, I don't remember today if he did.

22 Q. He didn't tell you he was going to prevent you from  
23 divorcing him, did he?

24 A. No.

25 Q. He didn't tell you he was going after Michelle?

1 A. No.

2 Q. He said he was sorry, and then he told your son, "I'll be  
3 right back"?

4 A. He told my son he'd be right back, after he had everything  
5 on him.

6 Q. The next thing that happened was your in-laws came into  
7 the house and untied you?

8 A. Yes.

9 Q. You later found out that Devin had actually told them you  
10 were tied up and that they should come untie you?

11 A. Correct.

12 Q. After Devin committed the shooting, he called you and left  
13 you a voicemail?

14 A. Correct.

15 Q. On that voicemail, he told you he was sorry?

16 A. Yes.

17 Q. That he loved you?

18 A. Yes.

19 Q. That he was a fucking wreck and didn't know what had gone  
20 on in his head?

21 A. Yes.

22 Q. Devin was also able to get ahold of your father-in-law's  
23 phone after the shooting?

24 A. Yes.

25 Q. Y'all listened on speaker?

1 A. Yes.

2 Q. Told you he loved you?

3 A. Yes.

4 Q. Told you he was sorry?

5 A. Yes.

6 Q. Told you he was trying to get home?

7 A. Yes.

8 Q. Now, on direct you stated that you then got on the phone  
9 with him, and he said he blamed you and it was all your fault?

10 A. He had me take him off of speakerphone. And then he told  
11 me that it was my fault, and killed himself.

12 Q. Ms. Smith, that's the first time you have ever told  
13 anybody that, isn't it?

14 A. Yeah.

15 Q. In fact, in your deposition, Mr. Webster asked you -- I'm  
16 going to go to Government Exhibit 53 at page 240.

17 MR. WEBSTER: I object, Your Honor, as improper  
18 impeachment. I never asked her that question. In fact, I  
19 stopped asking questions at that point.

20 THE COURT: Well, I'll wait to see if she points out  
21 a question.

22 MR. WEBSTER: Okay.

23 BY MS. CHRISTILLES:

24 Q. Mr. Webster asked you, "Anything else that Devin told you  
25 during this phonecall?"

1           "That he loved me and that he was just sorry.

2           "Did you hear anything else or anything else that happened  
3 then?

4           "No."

5           Didn't tell Mr. Webster about Devin telling you he blamed  
6 you, did you?

7 A. No. Because I don't like talking about it.

8 Q. But you wanted to be truthful in that deposition, correct?

9 A. Yes.

10 Q. In fact, you told us on direct it's the first time you  
11 ever were really truthful?

12 A. Yes.

13           MR. WEBSTER: Could you please give me that page  
14 number, please.

15           MS. CHRISTILLES: Sure. That's 240. Yeah, 240.

16           MR. WEBSTER: Page 240? Thank you.

17           MS. CHRISTILLES: Yes.

18 Your Honor, may I have one moment?

19           THE COURT: Yes.

20           MS. CHRISTILLES: Pass the witness, Your Honor.

21           THE COURT: Any redirect?

22           MR. WEBSTER: Yes, Your Honor. Briefly.

23                           REDIRECT EXAMINATION

24 BY MR. WEBSTER:

25 Q. Let's begin with what he just talked about on page 240 of

1 Exhibit Number 53. First off, while he's pulling that up, in  
2 order to move things along, Danielle, you told both me and  
3 Justin Demerath, another lawyer for the plaintiffs, this exact  
4 story when we were at the library that day, didn't you?

5 A. Yes.

6 Q. And you told me what happened with the phone, correct?

7 A. Yes. But I didn't tell, like, the rangers or anybody  
8 because nobody asked.

9 Q. But you did tell -- you did tell me that story, didn't  
10 you?

11 A. Yes.

12 Q. And, in fact, when we were at your deposition that day,  
13 and I was asking you questions about what went on that day,  
14 you started getting really upset, didn't you, when we started  
15 getting to that point to talk about what happened in the end,  
16 didn't you?

17 A. Yes.

18 Q. And, in fact, if you look at the deposition testimony that  
19 we're talking about, Defense Exhibit -- or G-53.

20 (Pause)

21 THE COURT: If you just want to approach the witness  
22 with a -- it looks like you have the page ready.

23 MR. WEBSTER: Sure. Your Honor, you know it.  
24 Basically -- is it okay to approach her?

25 THE COURT: Yes.

1 MR. WEBSTER: Thank you.

2 THE COURT: Oh, here it comes up.

3 MR. WEBSTER: Okay. Here we go. Pull up the entire  
4 front lines, from lines 9 through -- oh, you can't pull it up?  
5 There we go.

6 BY MR. WEBSTER:

7 Q. Do you see where it says -- after what the government read  
8 to you there, it says, "Did you hear anything else or anything  
9 else that happened then?

10 "No."

11 And I said, "Okay. You don't want to talk about it?"

12 And she says, "(Witness indicating by shaking her head  
13 negatively)." Do you recall that?

14 A. Yeah.

15 Q. Why did you -- why did you -- why did I say that, you  
16 don't want to talk about it?

17 A. Because I don't like having to keep going back.

18 Q. And that's because you had told me, hadn't you, about what  
19 happened on the phone after they -- after Devin asked you to  
20 take him off speaker, didn't you?

21 MS. CHRISTILLES: Objection. Leading.

22 THE COURT: That's sustained.

23 BY MR. WEBSTER:

24 Q. Okay. Why did you -- why did you not want to talk about  
25 it?

1 A. Because I don't like having to keep going back into that  
2 memory.

3 Q. And what had you told me -- what had you told me in that  
4 library that day when you signed that statement?

5 A. At the library, when y'all asked about it, I told y'all  
6 about it. But as far as everything else, I never told anybody  
7 about that time.

8 Q. And no one from the government followed up in your  
9 deposition, that you can recall, and asked you about what  
10 specifically happened, did they?

11 MS. CHRISTILLES: Objection. Leading.

12 THE COURT: Sustained.

13 BY MR. WEBSTER:

14 Q. Can you tell us, did anyone else ask you any questions  
15 with regard to that moment, until today?

16 A. No.

17 Q. Also --

18 (*Discussion off the record*)

19 BY MR. WEBSTER:

20 Q. I'll show you JEX 478A-0002.

21 It's already in evidence, Your Honor.

22 And this was Erin Higgins, who's your other mother, right?

23 A. Yes.

24 Q. And it says -- if you go down to the section -- I need to  
25 see it. Okay. That's not the point I want.

1                   (Pause)

2                   MS. CHRISTILLES: Your Honor.

3                   THE COURT: One second. We're changing court  
4 reporters, I believe.

5                   Let us know when we're ready.

6                   COURT REPORTER: I'm ready, Your Honor.

7                   THE COURT: Okay. Go ahead.

8                   MS. CHRISTILLES: Your Honor, counsel would ask if we  
9 could approach the bench.

10                  THE COURT: Come on up.

11                  (At the bench)

12                  MS. CHRISTILLES: Your Honor, where would you like  
13 us? I don't want to invade your space.

14                  THE COURT: So I'm okay. But I'm not sure how I'm  
15 supposed to mute and get to that side at the same time,  
16 though. I have to hold this button down. Why don't you guys  
17 come up here.

18                  MS. CHRISTILLES: Your Honor, I think Mr. Webster's  
19 made himself a witness in this case. He has indicated that  
20 she's indicating the only person she told this statement to is  
21 Mr. Webster. So, I mean, do I call Mr. Webster?

22                  THE COURT: So I think the point's already been made  
23 that she was asked a question in deposition, and then the  
24 followup question is -- or following statement -- I guess, it  
25 wasn't a question -- is, "You don't want to talk about it."

1       And the witness answers by shaking her head negative. So I  
2       don't think I need to hear anything more on this point.

3           MR. WEBSTER: No problem -- yes, sir.

4           THE COURT: So are you making a motion to recuse  
5       counsel?

6           MS. CHRISTILLES: Your Honor, I'm just concerned that  
7       I have impeached the witness on the statement, and now she's  
8       indicating that there's a witness to her ever saying this  
9       statement, and that witness appears to be Mr. Webster.

10          THE COURT: -- point is going to be just to whether  
11       or not she really made the statement before. I mean, given  
12       everything that's happened to this lady, and the statement was  
13       clear in deposition she didn't want to have any more followup  
14       on this. And so I'm crediting that.

15          MR. WEBSTER: Thank you, Your Honor.

16          *(Open court)*

17          THE COURT: Do you have any further questions for  
18       this witness?

19          MR. WEBSTER: Yes, sir. Just a few more.

20 BY MR. WEBSTER:

21 Q. Danielle, this -- I'll show you what's been marked as JEX  
22 478A-002. And this was -- this is Erin Higgins' statement or  
23 affidavit that she was given that's been marked as an exhibit  
24 here. It says, "Danielle was aware that Devin was cheating on  
25 her in the time leading up to the church shooting. Danielle

1 shared with me that on one occasion, one to three months  
2 before the church shooting, he had left his computer open and  
3 she'd seen a video of Devin Kelley in a sexual act with  
4 another woman."

5 Does that refresh your recollection as to whether or  
6 not --

7 THE COURT: So one second.

8 Is there an objection?

9 MR. WEBSTER: I'm sorry.

10 MS. CHRISTILLES: Yes. Objection. Leading.  
11 Personal knowledge. I mean, this is Erin Higgins' statement.

12 THE COURT: Yeah. So what is the purpose of this  
13 question?

14 MR. WEBSTER: I was just going to ask her if -- as a  
15 matter of her impeachment, I was asking if this refreshes her  
16 recollection as to whether or not she actually told someone  
17 about this prior to that.

18 THE COURT: So these are two separate matters that  
19 we're now talking about. And so this is not used for  
20 impeachment purposes. So your next question.

21 MR. WEBSTER: No problem, Your Honor.

22 THE COURT: That's sustained.

23 BY MR. WEBSTER:

24 Q. Did Devin --

25 You can take it down. Thank you.

1           Did Devin embark on any particularly complex tasks such as  
2 writing a novel or seeking publicity for some impractical  
3 invention?

4 A. I don't -- I don't know.

5 Q. Did you ever see anything like that?

6 A. No. I didn't see nothing.

7 Q. Did he ever tell people he had a special or secret  
8 relationship with a famous person?

9 A. No, not that I know of.

10 Q. Okay. Was his speech characterized by jokes, puns,  
11 theatricality or with dramatic mannerisms such as singing or  
12 excessive gesturing?

13           THE COURT: One second.

14           Is there an objection?

15           MS. CHRISTILLES: Objection. Leading.

16           THE COURT: That's sustained. And this is going  
17 beyond the testimony previously on cross.

18           MR. WEBSTER: Your Honor, she actually -- they  
19 actually brought up his severe mental decline, in the  
20 questioning at the start of her cross-examination. And this  
21 goes -- and this goes to exactly what she's talking about in a  
22 medical manner. I'm asking --

23           THE COURT: I'll let that in. But you're still  
24 leading.

25           MR. WEBSTER: Okay. No problem.

1 BY MR. WEBSTER:

2 Q. Let me ask you this. Did you -- did you ever observe him  
3 making any jokes?

4 A. No.

5 Q. Did you ever observe him making any puns or theatricality  
6 or with dramatic mannerisms?

7 A. No.

8 Q. Did you ever see him singing or excessive gesturing?

9 A. No.

10 Q. Did you ever see him talk really fast or have any type of  
11 accelerated speech or disorganized or incoherent speech?

12 A. When he was high off the clonazepam, he would. But it was  
13 hard to make out what he would say. And sometimes he would  
14 speed up everything he would say.

15 Q. When you would have conversations with Devin, did he ever  
16 get distracted easily by your clothing, by background noises  
17 or furnishings in the room so that he couldn't hold a rational  
18 conversation? Like, would he divert when he would see those  
19 things?

20 THE COURT: One second.

21 MS. CHRISTILLES: Objection. Leading.

22 THE COURT: That's overruled. He's asking for her  
23 observations.

24 THE WITNESS: If I wore something that he didn't  
25 like, he would stop his conversation and address -- you know,

1 I would have to go and change, or if something else was out of  
2 place in the house, he'd tell me to go and fix it.

3 BY MR. WEBSTER:

4 Q. Did you ever -- did you ever see him take or plan multiple  
5 activities at once, such as occupational, political or  
6 religious activities?

7 A. No. He stayed on one task at one time.

8 Q. Let me show you what's been previously marked as -- for  
9 the final questions that I have, what's been previously marked  
10 as JEX 0799-0079. 79. 0079.

11 MR. WEBSTER: Apologize, Your Honor. This is the  
12 last set of questions I have.

13 BY MR. WEBSTER:

14 Q. The government asked you about the masks that he wore, and  
15 they talk about that he -- the one that he put on that  
16 morning, that he slowly put on from the box, that was the  
17 Punisher mask; is that correct? That's what you saw?

18 A. Yes.

19 Q. He also had this other mask in the box that -- did you  
20 know about that?

21 A. No.

22 Q. But on the day in question, even though he has this other  
23 mask that was found in the house by the Texas Rangers, he  
24 chose the Punisher mask, didn't he?

25 A. Yes.

1 Q. And he chose that Punisher mask because he wanted to  
2 punish you, didn't he?

3 MS. CHRISTILLES: Objection. Leading.

4 THE COURT: That's sustained.

5 BY MR. WEBSTER:

6 Q. Okay. Can you tell me why you think he put the Punisher  
7 mask on, ma'am?

8 A. To what I feel like today, it was to get back at me for  
9 not wanting to be with him.

10 MR. WEBSTER: Pass the witness.

11 THE COURT: Anything based on those questions?

12 MS. CHRISTILLES: Just one question, Your Honor.

13 RECROSS-EXAMINATION

14 BY MS. CHRISTILLES:

15 Q. Ms. Smith, I just want to be clear about what you're  
16 testifying to today about Devin telling you on that phonecall  
17 that he blamed you and it was all your fault. Okay?

18 A. Okay.

19 Q. Just to be clear, the only person you have ever told that  
20 to is plaintiffs' counsel, correct?

21 A. Correct.

22 MS. CHRISTILLES: Nothing further, Your Honor.

23 THE COURT: You may step down.

24 Is there any further need for this witness, or is she  
25 going to be excused?

1           MR. ALSAFFAR: She may be excused, Your Honor.

2           THE COURT: Any necessity for her further?

3           MS. CHRISTILLES: No, Your Honor.

4           THE COURT: Thank you, ma'am. You're excused.

5           THE WITNESS: Okay.

6           MR. WEBSTER: Your Honor, we need to switch players  
7 for a minute, if that's all right.

8           THE COURT: Let's go ahead and just take a ten-minute  
9 break. And that'll give time to sanitize the area.

10          MR. WEBSTER: Thank you, Your Honor.

11          *(Recess)*

12          *(Change in reporter)*

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1 (Change in reporter.)

2 MR. LeGRAND: Your Honor, we would call Texas Ranger  
3 Terry Snyder to the stand.

4 THE COURT: Someone will need to get him.

5 MR. LeGRAND: Good afternoon, Your Honor.

6 THE COURT: Good afternoon.

7 MR. LeGRAND: I have placed a copy of my binder and a  
8 copy of Ranger Snyder's deposition in front of him. And I've  
9 given you a copy of Ranger Snyder's deposition because I'm  
10 going to make reference to a couple of areas of  
11 question-and-answer with him to save time.

12 THE COURT: Thank you.

13 MR. LeGRAND: And I did not give you a binder, unless  
14 you want one, because everything in there is going to be up on  
15 the screens.

16 THE COURT: That's fine. Thank you.

17 (TERRY SNYDER, having been duly sworn, testified as  
18 follows:)

19 THE COURT: Mr. LeGrand.

20 DIRECT EXAMINATION

21 BY MR. LeGRAND:

22 Q. Good afternoon. Would you please state your name, sir.

23 A. Terry Snyder.

24 Q. And what is your occupation?

25 A. Texas Department of Public Safety, Texas Ranger.

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1 Q. Is it okay if I refer to you as Ranger Snyder during the  
2 examination?

3 A. Yes, sir.

4 Q. Ranger Snyder, I've placed in front of you a binder -- a  
5 white binder there. And I'm not sure if you're going to have  
6 to refer to it. If you need a hard copy of any of the things  
7 we put on your screen there, you may refer to it, and I'll  
8 give you a tab number.

9 In the black folder is your deposition, and I am going to  
10 refer to a few sections of it where I want to ask the question  
11 and then you state what your answer was back at that time.  
12 And it will be fairly quick.

13 A. Yes, sir.

14 Q. Okay. Do you understand you are under oath?

15 A. Yes, sir.

16 Q. And as a Texas ranger, do you know what that means?

17 A. Yes, sir.

18 Q. Okay. Would you tell the truth anyway?

19 A. Yes, sir.

20 Q. Were you involved at all in the Sutherland Springs church  
21 massacre that occurred November 5th of 2017?

22 A. Yes, I was.

23 Q. Was the FBI involved?

24 A. Yes, they were.

25 Q. Was the ATF involved?

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1 A. Yes, they were.

2 Q. Was Homeland Security involved?

3 A. Yes, I believe so.

4 Q. Were various branches of local law enforcement involved?

5 MR. STERN: Your Honor, objection. Vague.

6 THE WITNESS: Yes.

7 THE COURT: Are you objecting to the word "involved"?

8 MR. STERN: I believe he asked if they were involved  
9 in the shooting.

10 THE COURT: No. He left off the word "shooting"  
11 because I was expecting that.

12 MR. LeGRAND: I meant "investigation."

13 BY MR. LeGRAND:

14 Q. Ranger Snyder, were you involved in an investigation after  
15 the shooting?

16 A. Yes, I was.

17 Q. Were you, in any way, at the church -- the baptist church  
18 in Sutherland Springs before a shooting took place?

19 A. No, I wasn't.

20 Q. So when I ask you these questions, I'm assuming that you  
21 didn't arrive on the scene until after the shooting had  
22 occurred. Fair enough?

23 A. That's correct.

24 Q. Would that be accurate?

25 A. Yes, sir.

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1 Q. And all the various law enforcement organizations I asked  
2 you about a few moments ago, would that be accurate for them  
3 as well?

4 A. That's correct.

5 Q. And the local law enforcement organizations that were  
6 involved, can you name some of them?

7 A. Wilson County Sheriff's Office, La Vernia Police  
8 Department, Bexar County Sheriff's Office, I think the city  
9 marshal's office out of Stockdale, and Guadalupe County and  
10 Texas DPS.

11 Q. Was the DPS involved, Department of Public Safety, from  
12 Texas?

13 A. Yes.

14 Q. And were the Texas Rangers involved?

15 A. Yes.

16 Q. Did -- the FBI, did they take charge of the investigation?

17 A. No, sir. We worked jointly.

18 Q. Okay. Who worked jointly?

19 A. We worked side by side, or along -- we worked with each  
20 other during the investigative part -- or during the  
21 investigation.

22 Q. Did the ATF work alongside you-all?

23 A. Yes, sir.

24 Q. Let's back up just a minute, then.

25 How did you find out that something had happened?

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1 A. I received a call that morning from Investigator Stephen  
2 Moore with the Wilson County Sheriff's Office informing me  
3 they had an active shooter at the church in Stockdale, the  
4 Sutherland Springs Baptist Church.

5 Q. And what did you do next?

6 A. I inquired and got some information from him. He said  
7 that the number of count that was deceased at the time was  
8 very low that he had received. So we hung up. I called my  
9 supervisor and immediately reported it to him, Lieutenant  
10 Michael Parker at the time, who has since transferred.

11 And once I made that call to my lieutenant, of course, the  
12 additional resources were called in at that time because we --  
13 or I felt it was something bad.

14 Q. And I'm going to back up with you again. I want you to  
15 tell the Court something about yourself.

16 Where did you grow up?

17 A. Snyder, Texas.

18 Q. And how did you get involved -- or can you give us a  
19 rendition of how you became a Texas ranger? What did you go  
20 through? Did you go to high school in Snyder?

21 A. I went to high school in Snyder and graduated.

22 Q. Take us from there to the Texas Rangers.

23 A. So after graduating high school, I did some side work and  
24 put myself through junior college. And then I -- at the same  
25 time, I got on with the local police department there as a

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1 dispatcher and then later joined the academy out of Odessa,  
2 where I received my basic peace officer training and then  
3 later became a patrolman with the Snyder Police Department.

4 After four years with the police department, I tested and  
5 was accepted with Texas DPS in 1998. I graduated the  
6 '98 school. And upon graduation, I returned back to Snyder  
7 where I did four years as a highway patrolman, and then I  
8 tested for motor vehicle theft service. At the time, it was  
9 part of the criminal investigations division with DPS.

10 I made motor vehicle theft. I transferred to McAllen,  
11 Texas, for five years. And then I voluntarily transferred to  
12 Lubbock, Texas, and was there for about a year. I promoted to  
13 lieutenant. Came to San Antonio.

14 In January of 2011, I tested for the Texas Rangers, was  
15 accepted and was assigned to Brownsville for eight months. And  
16 then after my time in Brownsville, I came back to the  
17 San Antonio area, stationed in Devine. And then I transferred  
18 over to Floresville -- the Kerrville station.

19 Q. Where were you stationed on November the 5th of 2017?

20 A. In Floresville, Texas.

21 Q. And did that have anything to do with you receiving a call  
22 about the shooting in Sutherland Springs?

23 A. Being that the Sutherland Springs Baptist Church lies  
24 within Wilson County, Wilson County is a county that I'm  
25 assigned to cover. And I assist the local sheriff's office

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1 and the local police departments there with investigations.

2 Q. Okay. After you received the call -- or what kind of call  
3 did you receive?

4 A. It was a personal call. I say "personal call." It was on  
5 my cell phone -- my work cell phone from an investigator in  
6 Wilson County of an active shooter.

7 Q. What does "active shooter" mean to you, if you receive a  
8 call?

9 A. That an individual has been seen or observed at the First  
10 Baptist Church in Sutherland Springs actively shooting and  
11 harming people.

12 Q. Did you head that way?

13 A. Yes. It took me a little while to get there. But, yes, I  
14 prepared myself, and then I traveled -- I live in Pleasanton,  
15 Texas. So it's about an hour-and-a-half drive,  
16 hour-and-15-minute drive for me.

17 Q. What did you do when you arrived at the church in  
18 Sutherland Springs?

19 A. Upon arrival, I met with the chief deputy of Wilson  
20 County. At the time -- they've had an administration change.  
21 But at that time, it was Johnie Deagan is who I met with and  
22 began gathering information as far as what all information  
23 they had gathered prior to my arrival.

24 Q. Were you the first Texas ranger to arrive on the scene?

25 A. Yes.

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1 Q. How long were the Texas Rangers present at the Sutherland  
2 Springs Baptist Church --

3 A. From that Sunday --

4 Q. -- doing their investigation? I'm sorry.

5 A. From that Sunday to about Thursday or Friday into the next  
6 week.

7 Q. Were you there the whole time?

8 A. Yes.

9 Q. Why?

10 A. Basically I was assigned as the lead investigator of this  
11 investigation, and after coordinating with Wilson County  
12 Sheriff's Department, they are initially the lead agency but  
13 due to the scope of the incident, they did not have the  
14 resources or the manpower to handle such investigation, so  
15 they asked us to take over the investigation. And then I'm  
16 assigned to that county. I'm considered the lead ranger  
17 responsible for the investigation part of it.

18 Q. How many Rangers were involved, in total, in the entire  
19 investigation?

20 A. To give you an exact number, approximately 15 to 20  
21 Rangers from across the state came in, maybe 30.

22 Q. Did you have superiors that you reported to?

23 A. Yes, I did.

24 Q. And we've seen the acronym ROI, like Reports of  
25 Investigation. You Rangers on the scene, were you involved in

1 those from time to time?

2 A. Yes, I was.

3 Q. And are those reports to your superiors?

4 A. That's correct.

5 Q. And who are your superiors, or who were they back at that  
6 time?

7 A. My office lieutenant here was Lieutenant Jessie Valdez. I  
8 think he was out of town at the time, so I called Lieutenant  
9 Parker, who was out of Waco, and Major Lane (phonetic), who is  
10 also stationed in Waco.

11 Q. That deposition that's laying in front of you, am I  
12 correct it's dated July 7th of 2020?

13 A. That's correct.

14 Q. Do you recall giving that deposition?

15 A. Yes, sir, I do.

16 Q. Do you recall the government of the United States taking  
17 your deposition?

18 A. Yes, sir.

19 Q. Do you know why -- was the Attorney General, were they  
20 your lawyer during that deposition?

21 A. Yes, sir.

22 Q. Do you know why you were selected to give the deposition?

23 A. No, sir.

24 Q. Okay. Did you know that the federal government noticed  
25 the Texas Rangers for a deposition?

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1 A. I'm sorry. Ask again.

2 Q. In other words, did you understand at the time your  
3 deposition was taken, did you understand that the government  
4 didn't notice Terry Snyder's deposition, they noticed the  
5 Texas Rangers' deposition; did you know that?

6 A. No, sir.

7 Q. Okay. You were just told to show up and give a  
8 deposition?

9 A. Answer to a subpoena.

10 Q. Okay. Okay. Pretty much like you did today?

11 A. Yes, sir.

12 Q. Okay. Can you describe in a little more detail the time  
13 you came in?

14 A. The Texas ranger division has their own chain of command.  
15 We fall under the Texas Department of Public Safety. And the  
16 Texas Department of Public Safety is led by a director.

17 And the ranger division has a chief that is under that  
18 director. So we have a ranger chief, an assistant chief, and  
19 then we have four or five captains stationed in Austin. And  
20 then the field commanders of the six companies, A through F  
21 that we have, are led by a major. And each under each major  
22 are two to three lieutenants.

23 Q. Where do you fall in that hierarchy, or that pyramid?

24 A. I'm field ranger, supervised by the first lieutenant.

25 Q. Do you know why you were selected to lead this

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1 investigation?

2 A. Being that it was -- it occurred in Wilson County, which  
3 Wilson County is a county I'm assigned to.

4 Q. Does a Texas ranger -- am I using the term correct when I  
5 say "investigation?"

6 A. Yes, sir.

7 Q. Does that have anything to do with the fact that the event  
8 has already occurred? And what I mean by that, in other  
9 words, the shooting had already taken place when you arrived;  
10 correct?

11 A. Yes, sir.

12 Q. So was your role as a Texas ranger and all the other  
13 agencies that arrived -- one, I guess, was to take care of the  
14 massive amount of victims; correct?

15 A. That was one of the roles, yes.

16 Q. Okay. And so what I'm leading up to is that the other  
17 part of your presence is to investigate what happened?

18 A. That's correct.

19 Q. When you arrived, did you know whether there were multiple  
20 shooters?

21 A. No, sir, not at the time.

22 Q. When you arrived, did you know whether this was some kind  
23 of foreign attack?

24 A. No, sir, I didn't.

25 Q. When you arrived, did you know anything about what had

1 happened?

2 A. No, sir, other than there was an active shooter and that  
3 by the time I arrived that individual had fled the scene and  
4 the officers or the different agencies were in pursuit.

5 Q. So were you at the church?

6 A. Yes, sir.

7 Q. Tell me what you did there, when you arrived.

8 A. I met with Johnie Deagan and we conducted a walk-through  
9 of the church. And shortly after my arrival our crime scene  
10 team working group coordinator ranger Troy Wilson arrived and  
11 I pretty much partnered up with him and Johnie afterwards and  
12 we started kind of organizing and triaging a plan, as far as  
13 the resources that we would need on the scene, and trying to  
14 gain control, basically, of the scene at that time for  
15 integrity purposes.

16 Q. So upon your arrival, does that start the clock on  
17 collecting facts?

18 A. Yes.

19 Q. And as a result of the Texas ranger investigation in its  
20 entirety, do you know how many documents resulted from that,  
21 roughly? I don't need an exact number.

22 A. I currently have approximately seven to eight binders  
23 full.

24 Q. Did we make you read all of those last night, or -- I'm  
25 sorry. I don't mean to make any humor out of this.

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1 A. I've studied some of them, yes. I've gone through this  
2 stuff a number of times, so...

3 Q. Who compiled the Texas ranger file that exists right now  
4 on Sutherland Springs?

5 A. Basically the other Rangers that are called in, they are  
6 assigned a task and they eventually write a report on  
7 everything they did. And that report, their reports are  
8 written in our system under a file number which I create.  
9 When I create that file number, all those other reports come  
10 in and I eventually print them off, or my office prints them  
11 off and I put them together.

12 Q. So would I be correct that because you were made the lead  
13 ranger there, you're at the top of the pyramid, as far as the  
14 end result report is concerned?

15 A. That's correct.

16 Q. I want to go to JEX597-002. Can you put that up.

17 Have you seen this document before, Ranger Snyder?

18 A. Yes, sir.

19 Q. Okay. Is that -- I will represent to you that all the  
20 exhibits I plan to use today are from the Texas ranger file;  
21 okay?

22 A. Yes, sir.

23 Q. And what is JEX597-0002?

24 Is it on the screen in front of you?

25 A. No, sir, not in front of me.

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1 Q. Can we take a second to see what the technology is doing  
2 there, because I don't want him to have to stare up.

3 Ranger Snyder, we're going to do this the old-fashioned  
4 way. Would you grab that white binder and go to Tab 2. I  
5 think if you look at Tab 2, you will find that JEX597-002.

6 A. Yes, sir. I've got it.

7 Q. What is that?

8 A. It looks like a time line of events that was compiled and  
9 put together.

10 Q. Would I be correct that if one goes through the entirety  
11 of the Texas ranger file, there will be several time lines;  
12 correct?

13 A. Yes, sir.

14 Q. For example, if we look at JEX597-001, that's the page  
15 before this one; correct?

16 A. Yes, sir.

17 Q. And is that also a time line?

18 A. That's correct.

19 Q. Okay. I want you to understand, I'm going to spend quite  
20 a bit of time on 597-001 and 597-002; okay?

21 A. Yes, sir.

22 Q. And, to your knowledge, these time lines, were they  
23 compiled by the Texas Rangers?

24 A. The information was provided to our analysts who worked  
25 along with us and she compiled the information into this

1 format.

2 Q. What I'm really driving at, is all the information on  
3 597-001 and JEX597-002, all of that information was compiled  
4 and gathered from the investigation of the Texas Rangers;  
5 would that be correct?

6 A. That's correct.

7 Q. So this time line wasn't generated the day of the  
8 shooting; was it?

9 A. No, sir.

10 Q. Okay. Let's start with JEX597-002. Is that a time line  
11 of the morning of the shooting?

12 A. Yes, sir.

13 Q. And then JEX597-001, the other companion under Tab 2 in  
14 your notebook, that's an annual time line?

15 A. Yes, sir.

16 Q. Okay. Let's first go to the morning of the shooting. So  
17 this apparently runs from roughly early in the morning to  
18 11:32 a.m.; correct?

19 A. That's correct.

20 Q. The first thing, the first thing we have on the line, the  
21 time line is in the middle of the page; correct?

22 A. Yes, sir.

23 Q. So under morning, it's got: "Kelley contacts his parents  
24 to watch the kids." Underneath that, it's got: "Kelley  
25 enters the bedroom with a handgun and held his wife at

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1 gunpoint. Then he handcuffed her to the bed." Correct?

2 A. Correct.

3 Q. Then it says: "Kelley retrieves a black, quote, rifle,  
4 close quote, bag and departs the apartment located on his  
5 parents' property." Have I read all of those correctly?

6 A. Yes.

7 Q. Those were all based on statements that were taken by  
8 various Rangers to accumulate these facts; correct?

9 A. Correct.

10 Q. So instead of going through hundreds of pages of Texas  
11 Rangers interviews, I'm okay to rely on these facts on this  
12 time line; correct?

13 A. Correct.

14 Q. The second dot in the middle of the page would be from  
15 11:14. It goes up and around to the top of the document and  
16 says it's from 11:14 a.m. to 11:22 a.m.; correct?

17 A. Correct.

18 Q. And you told us you were the head ranger, you would have  
19 been in charge of all the compilation of all these facts;  
20 correct?

21 A. Yes, sir.

22 THE COURT: One second here. Ranger, do you mind if  
23 this IT specialist works around you?

24 THE WITNESS: Not at all.

25 THE COURT: Go ahead, Daniel.

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1 You can continue.

2 MR. LeGRAND: Thank you, Your Honor.

3 BY MR. LeGRAND:

4 Q. Do you know, Ranger Snyder, how long it took, for example,  
5 to compile all the facts that make up JEX597-002? A long  
6 period of time?

7 A. We were there from like Sunday to Thursday, so during  
8 those days all this information was compiled and documented.

9 Q. Now, was the attempt of JEX597-2 to demonstrate what  
10 happened that morning, up until the point, I think over here  
11 at the end it's got: "Kelley is found deceased in the  
12 interior of the vehicle with gunshot wounds, including a  
13 self-inflicted gunshot wound to the head. Additional firearms  
14 and ammunition were removed from the vehicle." Have I read  
15 that correctly?

16 A. That's correct.

17 Q. So the start of the time line is Mr. Kelley contacting his  
18 parents and the various things we just went through. The end  
19 of the time line is he's dead in his vehicle from a  
20 self-inflicted wound; correct?

21 A. Correct.

22 Q. And in between, there is a number of things on this time  
23 line. I'd like to walk through them a little bit with you;  
24 fair enough?

25 A. Yes, sir.

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1 Q. Okay. Going to the box that's up here, 11:14 a.m. to  
2 11:22 a.m., it's got: "Kelley parks the Ford Expedition  
3 directly in front of the front door of the Sutherland Springs  
4 church and exits the vehicle, dressed in all black military  
5 style tactical gear and face mask, armed with a Ruger AR-556  
6 semiautomatic rifle." Have I read that accurately?

7 A. Correct.

8 Q. All of this was determined by your Texas ranger  
9 investigation; correct?

10 A. Yes, sir.

11 Q. For example, as far as you know, would anything be on  
12 these two time lines 597-1 and 597-2, if the FBI or the ATF  
13 disagreed with it?

14 MR. STERN: Objection. Calls for speculation.

15 THE COURT: That's overruled.

16 BY MR. LeGRAND:

17 Q. You worked directly with them; didn't you?

18 A. At the scene we worked side by side, yes.

19 Q. So, as far as you know, anything on these two time  
20 lines -- do you know of anything --

21 Do you know of anything, Ranger Snyder, on these two time  
22 lines that the FBI, or the ATF, or Homeland Security  
23 specifically disagree with?

24 A. I would think not.

25 Q. Now, when you got to the church, Ranger Snyder, did you go

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1 into the church?

2 A. Yes, I did.

3 Q. What did you see?

4 A. Um --

5 Q. Are you okay?

6 A. I first saw a small child, two years old, surrounded with  
7 colors -- coloring pages, that you would think that she had  
8 been there with her grandparents, you know, at the church  
9 service and just coloring.

10 And then throughout the church was just -- I mean, there  
11 was property damage, bullet defects, a lot of just deceased  
12 individuals. And the pews had been moved. There had been --  
13 some had been repositioned prior to our arrival. And that was  
14 due to medical intervention, trying to triage and assist the  
15 wounded.

16 Q. Ranger Snyder, we were on the part of 597-2, when the last  
17 thing I read was "armed with a Ruger AR-556 semiautomatic  
18 rifle." Had it already been moved before you got there?

19 A. Yes. I was later contacted by a Wilson County deputy who  
20 had entered the church prior to us. He, along with LaVernia  
21 Police Department officers, they entered the church to clear  
22 the church and make sure there was no other threat.

23 And prior to them exiting the church, that Wilson County  
24 deputy picked a rifle up from the center walkway between the  
25 pews, the center walkway there, and he took the rifle and

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1 secured it in his patrol car.

2 Q. Was that before you arrived?

3 A. Yes, sir.

4 Q. So when you walked into the church, had any ambulance  
5 arrived yet?

6 A. Yes.

7 Q. So was the process of treating injured people and dealing  
8 with the scene still going on, when you arrived?

9 A. Yes. Upon my arrival, there was -- I don't want to  
10 describe it as chaos, but the scene was very busy with a large  
11 number of people. People coming from everywhere, the  
12 community, the outskirts of the community, off-duty officers,  
13 law enforcement, EMS personnel.

14 And, as I explained, we were trying to gain control of the  
15 scene to conserve the integrity of any evidence that we would  
16 gather, and also be able to treat and continue to treat the  
17 wounded and get them to the hospital.

18 Q. If you notice at the top of the exhibit we're referring  
19 to, 597-002, it's got 11:14 to 11:22, but if we look down on  
20 the line there are actually some events that occurred during  
21 that; correct?

22 A. That's correct.

23 Q. For example, 11:17, it says -- down under here, it says:  
24 "Wilson County Sheriff's Office receives first 9-11 call."  
25 Was that before you arrived?

1 A. Yes.

2 Q. Do you know what time you arrived? Did you document that?

3 A. I'm sure I did. I would have to go back and research it,  
4 but I probably didn't get the call until 11:30 maybe, or prior  
5 to just a few minutes before. And it takes me roughly an  
6 hour-and-15, 20 minutes to get over there.

7 Q. So the first Texas ranger on the scene was you; correct?

8 A. That's correct.

9 Q. So you would have arrived after the end of this time line  
10 that is 597-002, JEX; correct?

11 A. Yes. Upon my arrival I learned that the pursuit -- they  
12 were in pursuit, and that they were -- the car had fled. The  
13 suspect had fled and they were pursuing him and that he had  
14 driven off the road, off the FM road, going back towards  
15 Lubbock County, and he drove off the road and into a field.

16 Q. Was that a considered a crime scene?

17 A. Yes.

18 Q. Was the church considered a crime scene?

19 A. Yes.

20 Q. Were there any other crime scenes?

21 A. Two additional crime scenes, being the scene where the  
22 civilian in the community that encountered -- his name was  
23 Stephen Willeford, who encountered the gunman inside the  
24 church at the time. His crime scene was across the street at  
25 a corner residence that's right across from the church.

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1 And then the other additional scene is the scene in  
2 Comal County where Devin left that morning, and where he had  
3 handcuffed and hog tied his wife and left his children.

4 Q. So what's the total number of crime scenes that developed,  
5 roughly?

6 A. A total of four.

7 Q. And one of those would have been where Danielle Kelly was  
8 hog tied on the bed; correct?

9 A. That's correct.

10 Q. And then Mr. Willeford, who was he? Is that his picture  
11 here on JEX597-2?

12 A. Yes, it is.

13 Q. And next to him it says: "Kelley exits the sanctuary and  
14 is engaged by Stephen Willeford?"

15 A. That's correct.

16 Q. And, as you sit here today, do you know whether or not  
17 Mr. Willeford fired on Mr. Kelley with a firearm?

18 A. He did.

19 Q. Do you know, as you sit here today, whether he wounded  
20 Mr. Kelley?

21 A. Yeah, I believe he did. Yes.

22 Q. And do you know whether or not Mr. Kelley succumbed from  
23 those wounds, or as we see over here, a self-inflicted wound?

24 A. It was determined that he succumbed to a self-inflicted  
25 wound.

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1 Q. And Mr. Willeford, is this accurate, that on the  
2 right-hand side of this exhibit that Mr. Willeford is picked  
3 up by Johnnie Langendorff, and then the two of them then  
4 pursued Kelley?

5 A. That's correct.

6 Q. And they ended up at the second crime scene where  
7 Mr. Kelley went off into the field and committed suicide;  
8 correct?

9 A. That's correct.

10 THE COURT: Let's pause for just a second.

11 Daniel.

12 (Off the record discussion.)

13 BY MR. LeGRAND:

14 Q. Ranger Snyder, would you pick up your --

15 THE COURT: One second here.

16 MR. LeGRAND: I'm sorry. I apologize, Your Honor.

17 THE COURT: He's going to be off the Zoom in just a  
18 moment and we'll wait for him to come back in.

19 Okay. We're back in business.

20 Mr. LeGrand.

21 BY MR. LeGRAND:

22 Q. Ranger Snyder, I may from time to time come back to  
23 Exhibit JEX597-2, which is the morning of the event -- okay?  
24 -- I may come back to that from time to time, but I want to  
25 move now to the other page of that. Do you know how -- it's

1 in front of you.

2 I want to go to 597-1.

3 Do you see that in front of you?

4 A. Yes, sir.

5 Q. And we're going to spend quite a bit of time on this  
6 today, but do you see that it begins in 2009, when it says:  
7 "Suspect Devin Kelley enlists in the Air Force?"

8 A. Yes.

9 Q. And then it ends on November 5th of 2017, the morning you  
10 drove up to the Sutherland Springs Baptist Church and  
11 witnessed what you told us you witnessed, when you walked in;  
12 correct?

13 A. Yes, sir.

14 Q. Okay. And throughout this testimony I'm going to take you  
15 through these various years and what the -- the Texas Rangers  
16 were unable -- or were able. The Texas Rangers were able to  
17 uncover and investigate all this information that's on  
18 JEX0597-1; correct?

19 A. That's correct.

20 Q. And when you gave your deposition back in July of last  
21 year, you knew that; correct?

22 A. Yes, sir.

23 Q. And you knew all this various information, when you gave  
24 your deposition?

25 A. Yes, sir.

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1 Q. And you knew Mr. Kelley's history?

2 A. Yes.

3 Q. With that in mind, I'd like you to take your deposition  
4 and I'm going to go through certain passages of it with you,  
5 pretty much as if I were asking you the questions today, but  
6 I'm going to give you page and line; okay? I'm going to give  
7 you the page and the line to go to. I'm going to read the  
8 question, and then I'd like you to read the answer, as if it  
9 was your testimony today; fair enough?

10 A. Yes, sir.

11 THE COURT: One second.

12 BY MR. LeGRAND:

13 Q. If you disagree with any of the answers that you gave back  
14 in July, would you interrupt and tell us: "I don't agree with  
15 that anymore"?

16 A. Yes, sir.

17 THE COURT: Is there an objection?

18 MR. STERN: There is, Your Honor. I know there is  
19 not a question pending, but this is a government exhibit of a  
20 deposition, which, as I understand Mr. LeGrand plans to use to  
21 ask the questions, almost to supplement his own. If it was a  
22 matter of impeaching, that would be one thing. But,  
23 otherwise, if they are willing to put in the government  
24 exhibits of the depositions, we certainly don't object to  
25 that.

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1           THE COURT: Yeah. You need to ask him a question.  
2 He needs to answer to the best of his ability without  
3 referring to his deposition. Then if you need to get him to  
4 refresh his memory, then you can perhaps go to that, but this  
5 is an improper questioning technique.

6           MR. LeGRAND: Your Honor, my attempt was to save  
7 time. And that's always my attempt, is to save time.

8           THE COURT: Yeah. Thank you for that, but let's just  
9 ask questions and get his best answer.

10          MR. LeGRAND: Okay.

11 BY MR. LeGRAND:

12 Q. I'm going to ask you questions, Ranger Snyder, based; on  
13 your deposition, and if your answers disagree with what you  
14 gave back then, we'll talk about it; fair enough?

15 A. Yes, sir.

16 Q. So I was asking you about Devin Kelley, and I said: "Did  
17 you determine that he's a convicted felon?"

18 A. Yes. We learned that he was, yes.

19 Q. Okay. And you didn't know that at the time you arrived at  
20 the scene; did you?

21 A. No, sir, we did not.

22 Q. And you didn't learn that for the first time -- you didn't  
23 learn all of that -- then I said: "When is the first time you  
24 learned that he was a convicted felon?"

25 A. It was later that first day or the next day. I know we

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1 requested the analytical assistance. The resources that we  
2 were utilizing, we asked them to run background checks and run  
3 any information that we could get on this guy's name and date  
4 of birth, because at the time we didn't know what kind of  
5 event that we had or what we were looking at to investigate,  
6 if there were multiple shooters, if it was a terrorist act,  
7 what we were dealing with at the time. So we wanted to learn  
8 as much information as we could about by his name and date of  
9 birth.

10 Q. Ranger Snyder, do you recall when your deposition was  
11 taken that the United States attorney that asked you  
12 questions, I think it was for roughly seven hours; do you  
13 recall that?

14 A. Yes, sir.

15 Q. Okay. Do you remember that his name was Mr. Furman?

16 A. Yes, sir.

17 Q. And Mr. Furman asked you, I think -- do you recall that  
18 Mr. Furman asked you a lot of questions about how criminals  
19 got firearms, like stealing, borrowing, straw purchases, gun  
20 shows; do you remember that line of questioning?

21 A. Yes, sir.

22 Q. And would you agree, Ranger Snyder, that every single gun  
23 that was in Devin Kelley's possession on the day of the  
24 shooting, he bought through a federal firearms licensee, and  
25 that the sale was approved by the federal government?

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1 MR. STERN: Objection. Is he being asked if he  
2 recalls from his deposition?

3 MR. LeGRAND: No. I asked a question.

4 THE COURT: That was all predicate. Now the question  
5 is: "Do you know whether the guns used were all purchased  
6 through a federally licensed arms dealer?"

7 THE WITNESS: The investigative facts that we  
8 gathered from Kelley being in possession of these firearms,  
9 all these firearms collected and background checks, revealed  
10 that he did purchase those firearms.

11 BY MR. LeGRAND:

12 Q. So he didn't have a weapon that he got by a straw  
13 purchase?

14 A. No, sir. Nothing indicated such.

15 Q. And he didn't have a weapon that he stole?

16 A. No, sir.

17 Q. And he didn't have any weapons that he borrowed?

18 A. No, sir.

19 Q. And he didn't have any weapons that he bought at a gun  
20 show?

21 A. No, sir.

22 Q. And did you determine that all of the weapons -- in fact,  
23 did he have three weapons there that day?

24 A. I believe there was three that was collected from him,  
25 yes.

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1 Q. So one was a Ruger AR-556 assault rifle?

2 A. That's correct.

3 Q. And that was left laying on the floor of the church;  
4 correct?

5 A. Yes, sir.

6 Q. And it was picked up by law enforcement individual and  
7 placed in a car?

8 A. That's correct.

9 Q. And was it bought at an FFL, or a federal firearms  
10 licensed store?

11 A. Yes.

12 Q. And did your investigation turn up that that store was an  
13 Academy store?

14 A. That's correct.

15 Q. And did your investigation turn up that Mr. Kelley filled  
16 out a Form 4473 from the ATF in order to purchase that weapon?

17 A. That's correct.

18 Q. And that he purchased this new in the box; correct?

19 A. Yes, sir.

20 Q. And that was true with all three weapons that he had there  
21 that day; correct?

22 A. True, that they were legally -- or that they were  
23 purchased -- I don't know, I can't remember if they were all  
24 purchased from the Academy store, but, yes, they were all  
25 purchased.

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1 Q. No, sir. In fact, I think one, if we go to JEX0597-001,  
2 the annual time line --

3 A. Yes, sir.

4 Q. I think if you look on 2016, it says: "Kelley purchases  
5 Ruger AR-556 rifle, not eligible to purchase, due to his  
6 conviction." Have I read that correctly?

7 A. I'm sorry, sir. Will you direct me?

8 Q. Go to 2016.

9 A. Yes, sir.

10 Q. Okay. And it says: "Kelley purchases Ruger AR-556  
11 rifle." And then it says: "Not eligible to purchase, due to  
12 conviction." Correct?

13 A. Correct.

14 Q. So you had determined he was a felon by the time this  
15 document was generated?

16 A. That's correct.

17 Q. So it would have been illegal for him to purchase that gun  
18 as a felon; correct?

19 A. Yes, sir.

20 Q. But he did purchase it. He purchased it new and it was  
21 laying in the floor of the church; correct?

22 A. That's correct.

23 Q. And he used it to reek the havoc that he did on  
24 November 5th, 2017; correct?

25 A. Yes, sir.

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1 Q. Now, if you look over on 2014, do you see down on the  
2 bottom right-hand side of 2014, it says: "Kelley purchases  
3 Glock, model 19, .9mm pistol." Do you see that?

4 A. Yes, sir.

5 Q. And it also says: "Not eligible to purchase, due to  
6 conviction?"

7 A. Yes, sir.

8 Q. He had a Glock in his possession the day of the shooting;  
9 correct?

10 A. Yes, sir.

11 Q. Did you determine that it was that Glock that's referred  
12 to here that was purchased December 22nd of 2014?

13 A. Yes, sir.

14 Q. And then also, if you come up to 2017, October 18th -- you  
15 with me?

16 A. Yes, sir.

17 Q. "Kelley purchases Ruger SR-22 pistol. Not eligible to  
18 purchase, due to conviction." Have I read that correctly?

19 A. That's correct.

20 Q. The three guns I just went through, the AR-556, the Glock,  
21 and the Ruger SR-22, I think the AR-556 and the SR-22 both  
22 came from Academy; is that your recollection?

23 A. I would agree.

24 Q. Okay. And that the SR-22 was in Mr. Kelley's backpack in  
25 his car?

1 A. That's correct.

2 Q. It was never fired the day of the event; was it?

3 A. No, sir. There is no evidence indicating so.

4 Q. And then he committed suicide with the Glock?

5 A. That's correct.

6 Q. Any evidence that he fired the Glock inside the church? I  
7 think you were asked that in your deposition.

8 A. No evidence that he fired it inside the church. I think  
9 he discharged that weapon exiting the church in the gun fight  
10 with the civilian.

11 Q. So the investigation from the Texas Rangers -- am I  
12 correct? -- it determined that Mr. Kelley used the Glock to  
13 shoot at Mr. Willeford?

14 A. That's correct.

15 Q. But all the shooting he did to kill and maim and harm all  
16 the people inside the church was done with this AR-556 assault  
17 rifle; correct?

18 A. That's correct.

19 Q. That he bought with the clearance of the FBI. Did your  
20 investigation determine that? That he filled out a 4473, and  
21 that the FBI green lighted that because the Air Force never  
22 told them he was a felon. We reached that conclusion in your  
23 deposition; correct?

24 A. So the application was cleared for him to purchase that  
25 from the Academy store, yes.

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1 Q. Right. And your investigation determined that the Air  
2 Force never told the FBI that Mr. Kelley had been convicted of  
3 a child abuse felony; correct?

4 A. The investigation -- I guess to answer that, it's revealed  
5 that Kelley had been charged with a child abuse charge for a  
6 domestic charge.

7 Q. And would you go to 2012 on the exhibit?

8 I'm sorry. Did I interrupt you?

9 A. No, sir. Go ahead.

10 Q. Go to the bottom right-hand corner of 2012 under JEX597-1.  
11 Do you see where it says: "Kelley found guilty of domestic  
12 abuse by Air Force. Due to conviction, Kelley was not  
13 eligible to purchase firearms." Have I read the Texas ranger  
14 time line correctly?

15 A. Yes, sir.

16 Q. So the result of your investigation was the Air Force  
17 didn't report that to the FBI; did they?

18 A. Well, according to this time line and according to the  
19 investigation, it was found that he was convicted of this  
20 domestic abuse and it was discovered we learned that  
21 information. How that information was communicated amongst  
22 the agencies or the different entities, we didn't find  
23 anything on that. I mean --

24 Q. I'm not asking you that. What I'm asking you is that the  
25 end result of your investigation, do you recall in your

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1 deposition you were asked "Do you agree that you-all  
2 determined that Mr. -- that the Air Force did not report  
3 Mr. Kelley's felony conviction to the FBI?"

4 MR. STERN: Objection. Asked and answered.

5 THE COURT: That's overruled.

6 THE WITNESS: That's correct.

7 BY MR. LeGRAND:

8 Q. Okay. Would you agree, Ranger Snyder, that your  
9 investigation brought you to the conclusion that every single  
10 one of the guns that Mr. Kelley had at the church, that he  
11 bought from a licensed gun dealer with a form that he filled  
12 out and sent in to the U.S. Government?

13 A. That's correct.

14 Q. Now, do you recall telling me in your deposition that it  
15 was somewhere in the neighborhood of three days before you,  
16 the Texas Rangers, the FBI, and the ATF determined that  
17 Mr. Kelley was a convicted felon?

18 A. It was two to three days. We didn't learn that  
19 immediately upon the onset of the investigation.

20 Q. And do you recall telling me that you and the FBI and the  
21 ATF all learned that about the same time?

22 A. That's correct.

23 Q. And do you recall telling me that the FBI told you that  
24 the reason for that is that the Air Force never reported it to  
25 them; do you recall telling me that in your deposition?

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1 A. Yes.

2 Q. Do you recall telling me that the reason Mr. Kelley had  
3 those three guns is because the Air Force didn't tell the FBI  
4 that he was a convicted felon?

5 MR. STERN: Objection. Form.

6 THE COURT: So this is improper impeachment. You  
7 need to ask him the question, rather than referencing the  
8 deposition.

9 That's sustained.

10 BY MR. LeGRAND:

11 Q. Is it correct, Ranger Snyder, that you-all at the Texas  
12 Rangers learned through the FBI that the reason they didn't  
13 know Mr. Kelley was a convicted felon is because the Air Force  
14 didn't tell them that?

15 A. Yes, sir.

16 Q. Now, --

17 (Off the record discussion.)

18 THE COURT: Let's just ask a question.

19 MR. LeGRAND: That's what I'm trying to do, Your  
20 Honor. I apologize.

21 BY MR. LeGRAND:

22 Q. Ranger Snyder, would you agree that in your job with the  
23 Texas Rangers there is times when you report to the next NICS  
24 database?

25 A. Yes.

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1 Q. And do you report -- as a Texas ranger, do you report  
2 felony convictions to the NICS database?

3 A. Yes.

4 Q. And do you agree that if -- what is your understanding of  
5 what the NICS database is?

6 A. We operate, or we run our checks on the individual's name,  
7 date of birth, their driver's license number, social security  
8 number through two different databases. One is the --

9 (Reporter clarification.)

10 So we run our information through two databases, one being  
11 the TCIC, being the Texas Crime Information Center, and then  
12 the other one in NCIC, which is the National Crime Information  
13 Center.

14 BY MR. LeGRAND:

15 Q. And when Mr. Kelley or anybody else fills out a 4473 ATF  
16 form that goes into the FBI, do you know, or is it your  
17 understanding that that search through the NICS database to  
18 see if they are eligible to buy a firearm?

19 A. The search through the NICS system would return anybody  
20 with a convicted felony or it would show their convictions and  
21 their charges.

22 Q. So as a Texas ranger do you report felons to the NICS  
23 database, so they won't be able to buy firearms?

24 Is that one of the reasons you report them?

25 A. That's correct.

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1 Q. Okay. And do you recall ever having not reported a felon  
2 to the NICS database, when you were required to do so?

3 A. No, sir.

4 Q. Are you required to report felons to the NICS database, if  
5 it's your area or responsibility?

6 A. Yes, sir.

7 Q. Do you have supervisors that make sure you do that?

8 A. That's correct.

9 Q. And if you didn't do it, would your supervisor be very  
10 upset with you?

11 A. That's correct.

12 Q. Would you, in fact, probably be fired from the Texas  
13 Rangers, if you didn't report a felon to the NICS database?

14 A. Yes.

15 Q. And, in addition to not being allowed to buy a firearm, is  
16 it your understanding from your work as a Texas ranger that  
17 Mr. Kelley should not have been allowed to carry a firearm as  
18 a convicted felon?

19 A. There is other parameters that would determine that, just  
20 not being based as a convicted felon, I guess you could say.

21 Q. Okay. Let me be more specific. If he was a convicted  
22 domestic abuse felon, would he be allowed to carry a firearm  
23 in Texas?

24 A. No, sir.

25 Q. Okay. And if you look back at JEX0597-1, 2012, you and I

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1 read earlier -- correct? -- that he was: "Found guilty for  
2 domestic abuse by the USAF, and Kelley was therefore not  
3 eligible to purchase firearms." Correct?

4 A. Correct.

5 Q. He couldn't possess them, or wear them, or carry them  
6 either; correct?

7 A. That's correct.

8 Q. So if he was wearing a firearm in 2017 everywhere he went,  
9 would he be breaking the law everywhere he went?

10 A. That's correct.

11 Q. Do you recall in your deposition I went through a  
12 hypothetical with you about if you had pulled Devin Kelley  
13 over on Highway 87 on his way to Sutherland Springs the  
14 morning of the shooting; do you recall that?

15 A. Yes.

16 Q. Okay. And I think I took you back to your DPS days, when  
17 you were driving a patrol car. If you had pulled Devin Kelley  
18 over for speeding -- do you recall me asking you about that?

19 A. Yes, sir.

20 Q. And you had seen a long gun, this AR-556 laying on his  
21 back seat, would you have gone back to your patrol car and run  
22 him up on your NICS database?

23 MR. STERN: Objection. Called for facts not in  
24 evidence.

25 THE COURT: That's overruled.

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1 THE WITNESS: I would have.

2 BY MR. LeGRAND:

3 Q. And in hindsight, you wouldn't have found a thing, because  
4 the Air Force never reported his felony; correct?

5 A. His background I looked at during my investigation doesn't  
6 report anything on there that would cause me any concern of  
7 him being in possession of a firearm at the time that I would  
8 have conducted a traffic stop.

9 Q. And so, if he's convicted as a domestic abuse felon, he  
10 can't wear body armor either; can he?

11 A. No, sir.

12 Q. He can't even possess body armor; can he?

13 A. No, sir.

14 Q. But that morning, if you had pulled him over and he had  
15 body armor on, you couldn't have done anything to him -- could  
16 you? -- because he was clean in the NICS system?

17 MR. STERN: Objection. Calls for speculation.

18 THE COURT: That's overruled.

19 THE WITNESS: Same as the firearm. I mean, if I  
20 would have noticed the body armor and I run a check on him, it  
21 wouldn't have raised any concern because there was nothing  
22 indicating on his criminal history.

23 BY MR. LeGRAND:

24 Q. So if that morning if you had pulled him over for speeding  
25 and you had run him in your NICS database in your DPS patrol

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1 car, and that Ruger AR-556 assault rifle had been laying on  
2 the back seat of the car, you wouldn't have done anything, you  
3 would have let him go -- correct? -- after you gave him a  
4 speeding ticket?

5 MR. STERN: Objection.

6 THE WITNESS: That's correct.

7 THE COURT: That's been asked and answered, but we  
8 got the answer.

9 BY MR. LeGRAND:

10 Q. Now, you, and the FBI, and the ATF all found out about  
11 Devin Kelley being a child abuse felon, along about the same  
12 time?

13 A. Yes. Within a couple of days, yes.

14 Q. Do you recall that the ATF boots on the ground and the FBI  
15 boots on the ground there with you in Sutherland Springs were  
16 shocked by that?

17 A. I never -- I can't testify and say I ever heard a  
18 statement made of such or any comment.

19 Q. Do you recall telling me in your deposition that they were  
20 shocked by it?

21 A. I would have to refresh my memory or go back to it.

22 Q. Okay. Would you grab it there in front of you, page 248,  
23 line 8. Tell me when you're there with me; okay?

24 A. Yes, sir.

25 Q. Question on Line 8: "But, okay, but you remember working

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1 with the FBI and the ATF. Were they shocked when they found  
2 out that the Air Force had not turned this data in to them?"  
3 And what was your answer?

4 A. I answered: "Yes, sir."

5 Q. And do you agree with that answer today, or does that  
6 refresh your recollection?

7 A. I would agree. I guess I'm implying and answering a  
8 question to them being shocked because I was surprised because  
9 the criminal history did not indicate anything as such.

10 Q. Were you surprised and shocked that his criminal history  
11 had not been turned into the FBI?

12 A. I can't say that his criminal history hadn't been turned  
13 over to the FBI, because there was some reports on there for  
14 some juvenile records, so he did have a criminal history.  
15 However, charges that would prevent him from purchasing a  
16 firearm, being in possession of a firearm, or a body armor was  
17 not indicated on that criminal history.

18 Q. And did that shock you?

19 A. Yes.

20 Q. It wouldn't happen in the Texas Rangers; would it?

21 A. No.

22 Q. At least somebody would be in a whole lot of trouble?

23 A. Yes.

24 Q. Now, at the very end of your deposition -- well, I'll ask  
25 you the question. Do you agree, Ranger Snyder, that if we

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1 look at JEX0597-1, this is the annual time line?

2 A. That's correct.

3 Q. Do you agree that it shows, in 2012 it shows two purchases  
4 at Holloman Air Force Base of firearms from a date standpoint  
5 actually before Mr. Kelley was convicted; correct?

6 A. Correct.

7 Q. But do you agree that the Texas Ranger time line shows at  
8 least four firearms on here -- and I can walk you through  
9 them -- 2015. Do you see on October 20th he purchased a .9mm  
10 semiautomatic pistol?

11 A. Yes.

12 Q. And 2014, before that's when he purchased the Glock down  
13 here in 2014; correct?

14 A. Correct.

15 Q. And 2016 he purchased the Ruger automatic rifle; correct?

16 A. Correct.

17 Q. And 2017 he purchased the 22?

18 A. Correct.

19 Q. Okay. And do you recall ever having talked to me in your  
20 deposition about how buying that many guns and passing that  
21 many FBI background checks might eventually tell somebody that  
22 they are not in the system?

23 MR. STERN: Objection. Calls for speculation.

24 THE COURT: That's overruled.

25 THE WITNESS: So part of our job as investigators is

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1 to compile this information. This information is put together  
2 as a puzzle, so I see this as putting the border of this  
3 puzzle together, and the remaining pieces we're trying to  
4 compile as much information as we can to complete our  
5 investigation.

6 What this information was able to tell him -- I know  
7 what it tells me is that he purchased four firearms. What he  
8 was thinking, or how it made him feel, obviously we didn't get  
9 to interview him to get that answer or get the why from him or  
10 what he was feeling. I can just indicate he was able to  
11 purchase four firearms.

12 BY MR. LeGRAND:

13 Q. Okay. I'm just asking you hypothetically. In your  
14 experience as a Texas Ranger, if somebody is able to walk in  
15 to a retail store, that's a gun store, that's a federal  
16 firearm licensee gun store on four separate occasions after  
17 they are convicted as a domestic violence felon and buy  
18 firearms, hypothetically, do you believe that at some point in  
19 time that would start to tell them they are not in the system?

20 MR. STERN: Same objection, Your Honor. Calls for  
21 speculation. Lack of personal knowledge.

22 THE COURT: Yeah. That is sustained.

23 BY MR. LeGRAND:

24 Q. So, Ranger Snyder, we have established, have we not, that  
25 you learned during your investigation about the three firearms

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1 that were located at the scene and used in Devin Kelley's  
2 possession on the day that he went to the Baptist church in  
3 Sutherland Springs and committed this massacre?

4 A. That's correct.

5 Q. And we know that those three firearms were traced through  
6 the ATF tracing system?

7 A. That's correct.

8 Q. Let's go to JEX552. Have you seen that document before,  
9 Ranger Snyder? It's from the Texas ranger file.

10 A. Yes. That's the firearms trace summary provided by ATF.

11 Q. So ATF provided that to the Texas Rangers?

12 A. That's correct.

13 Q. And do you see that it's dated November 5th, 2017?

14 A. Yes.

15 Q. So that's the date of the shooting; correct?

16 A. That's correct.

17 Q. Did it say anything on that exhibit, JEX552, does it say  
18 anything whatsoever on it about a previous felon or previous  
19 felony?

20 A. No, sir.

21 Q. So does that trace on that firearm, the Ruger AR-556, does  
22 it display any history whatsoever that this man is a convicted  
23 domestic violence or child abuse felon?

24 A. No, sir.

25 Q. And then let's go to JEX553. Do you see that in front of

1 you?

2 A. Yes, sir. It's a firearms trace summary for a Glock.

3 Q. Is that the firearms trace summary for the Glock that was  
4 in his possession?

5 A. That's correct.

6 Q. And so do you see the date on that?

7 A. Completion date November 5th, 2017.

8 Q. Is that the same day as the shooting?

9 A. That's correct.

10 Q. And so do you see anything on that document that shows  
11 other than that Mr. Kelley bought that gun from a licensed  
12 federal firearms dealer with the approval or go ahead from the  
13 FBI?

14 A. No, sir.

15 Q. And then let's look at JEX554. Would you look at the date  
16 on that? Is that another ATF trace summary?

17 A. It's a firearms trace summary provided by ATF completed on  
18 November 7th, 2017.

19 Q. That's on the SR-22; correct?

20 A. That's correct.

21 Q. So that's two days after the shooting; correct?

22 A. That's correct.

23 Q. Do you see anything on this document, the ATF trace  
24 document that's two days after the shooting, that says  
25 anything about Devin Kelley being a convicted child abuse

1 felon?

2 A. No, sir.

3 Q. Ranger Snyder, did you know, did you know about  
4 Mr. Kelley's application to attain a Texas handgun carry  
5 permit?

6 A. We learned of it during the investigation, yes, sir.

7 Q. Okay. If you look at JEX597-1 again, do you see under  
8 2015 that it says: "Kelley applies for Texas DPS concealed  
9 handgun permit and it was denied." Correct?

10 A. That's correct.

11 Q. Okay. Would you look at JEX578 for me. Have you seen  
12 that document before?

13 A. It's the letter of denial I believe from Texas Department  
14 of Public Safety Regulatory Service Division.

15 Q. Now, Ranger Snyder, when somebody applies for -- I think  
16 they call them a CHL back in the day, a concealed handgun  
17 license, but now I think they are called LTCs -- correct? --  
18 license to carry?

19 A. Yes, sir.

20 Q. When someone applies for one of those, would I be correct  
21 they supply their fingerprints?

22 A. Yes, sir. I believe they do.

23 Q. Okay. And so if Mr. Kelley applied for this Texas DPS  
24 concealed handgun permit in 2015, he would have supplied his  
25 fingerprints; correct?

1 A. Yes.

2 Q. And those get sent to the FBI by Texas; correct?

3 A. Yes.

4 Q. And so the reason Mr. Kelley was turned down, if we go  
5 back to JEX578, is that the letter that tells Mr. Kelley he's  
6 turned down?

7 A. Yes. That's the denial letter.

8 Q. Does it tell Mr. Kelley he's turned down because his  
9 fingerprints said he was a felon?

10 A. The letter indicates the reason for denial is an animal  
11 neglect charge in El Paso County, Colorado in 2014.

12 Q. So, in effect, would you agree it tells Mr. Kelley he was  
13 not turned down because of his fingerprints? It doesn't  
14 mention that; does it?

15 A. No, sir.

16 Q. In fact, it tells Mr. Kelley, the only reason you were  
17 turned down by Texas for your handgun carry license is because  
18 you neglected a dog or an animal; correct?

19 A. Animal neglect, correct.

20 Q. In fact, it even tells him if he can clean that up, he can  
21 get a Texas handgun carry permit; correct?

22 A. I believe he was asked to respond and he never responded.

23 Q. Right. But wouldn't this letter tell you as a Texas  
24 Ranger that the FBI said his fingerprints were clear?

25 A. This letter alone, I don't believe so. The only way I

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1 believe that he would be able to know that he's clear is  
2 unless he ordered his own criminal history and he reviewed  
3 that himself, what you are allowed to do through the Texas  
4 DPS.

5 Q. Would you agree this letter does not tell Mr. Kelley he's  
6 being rejected because his fingerprints indicate he's a felon?

7 A. Correct.

8 Q. If his fingerprints had indicated that he was a felon, do  
9 you believe Texas would have told him that?

10 A. Correct.

11 Q. What would Texas do if somebody that was a child abuse  
12 felon and that their fingerprints at the FBI said they were a  
13 child abuse felon -- okay? -- do you think Texas would notify  
14 the person, if they applied for a handgun carry permit that  
15 the FBI says you're a felon?

16 MR. STERN: Objection. Calls for speculation.

17 BY MR. LeGRAND:

18 Q. I'm just asking you what you know as a Texas Ranger. I'm  
19 not asking you to guess or speculate. Would Texas tell you  
20 that?

21 MR. STERN: Objection.

22 THE COURT: Do you know the answer to that?

23 THE WITNESS: No, sir.

24 THE COURT: Next question.

25 MR. LeGRAND: That's fair.

1 BY MR. LeGRAND:

2 Q. But in 2015 he was rejected for his handgun carry permit  
3 because of animal neglect, not because of his fingerprints;  
4 correct?

5 THE COURT: That's asked and answered. Next  
6 question.

7 BY MR. LeGRAND:

8 Q. Ranger Snyder, was Mr. Kelley ever forced to behave as a  
9 criminal in society?

10 MR. STERN: Objection.

11 THE COURT: So you need to be more specific in the  
12 objection.

13 But that's awfully vague. You need to clarify your  
14 question.

15 BY MR. LeGRAND:

16 Q. Well, Ranger Snyder, I want you -- was Mr. Kelley, as far  
17 as you know, ever denied the purchase of a firearm at a  
18 licensed federal firearm dealer, based on your investigation?

19 A. Based on my investigation, there is no evidence to support  
20 that.

21 Q. Was he ever forced to go to a market where criminals go to  
22 buy firearms?

23 A. There is no evidence to support that.

24 Q. So as far as gun purchasing, was Mr. Kelley ever forced  
25 because of his felony to go to the criminal market for guns?

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1 MR. STERN: Objection. Vague.

2 THE COURT: So he can answer that the same way he's  
3 been answering.

4 THE WITNESS: The investigation revealed he purchased  
5 each weapon that he possessed and owned legally through a  
6 licensed dealer.

7 BY MR. LeGRAND:

8 Q. Now, Ranger Snyder, did your investigation determine  
9 whether when he left Holloman Air Force Base he was a  
10 convicted felon? That's, in fact, on JEX597-1; correct?

11 A. That's correct.

12 Q. Did the Texas Rangers determine that he had escaped from a  
13 mental hospital?

14 A. We learned of that information, yes.

15 Q. In fact, if you look at 2012, again on JEX597-1, under  
16 2012, in the middle, do you see April 30th to June 7th, it  
17 says: "Admitted to Peak psychiatric hospital, and that he  
18 eloped from the facility." What does that mean?

19 A. That he walked out, that he escaped from the facility.

20 Q. And then does "eloped" also mean escaped?

21 A. Sure.

22 Q. If you come over to June 13th, does it say: "Kelley  
23 located a Greyhound Station in El Paso County -- I think it  
24 should be Texas -- was allegedly attempting to carry out death  
25 threats to the military chain of command." Is that part of

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1 the Texas Ranger, results of their investigation?

2 A. That's information we learned, yes.

3 Q. So the Air Force, according to your time line, knew he was  
4 guilty of domestic abuse and was a felon; correct?

5 A. Yes.

6 Q. Did you determine any evidence in your investigation  
7 whereby the Air Force told the rest of the world that?

8 MR. STERN: Objection. Vague.

9 THE COURT: That's overruled.

10 THE WITNESS: Through our investigation and through  
11 our checks of background on him through the Texas system, the  
12 national system, there was no indications of any of this  
13 information that we learned outside running the database.

14 BY MR. LeGRAND:

15 Q. Ranger Snyder, I want to change subjects for just a moment  
16 and I'm going to go to -- well, before I do that, let me ask  
17 you. Up to this point, you and I have talked about six times  
18 that the FBI would have checked Mr. Kelley's fingerprints;  
19 correct?

20 A. Correct.

21 Q. And all of those six times that they would have checked  
22 his fingerprints, they would have said their records don't  
23 show any felony conviction; correct?

24 A. That's correct.

25 Q. I want to go to the seventh time now for a second. Do you

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1 see on 2017 over here on JEX597-1?

2 A. Yes, sir.

3 Q. Do you see the first thing there, June 8th under 2017, it  
4 says: "Kelley issued nine commissioned security guard  
5 license." Do you know what one of those is?

6 A. It's a license to participate or practice as a security  
7 guard for a business or whoever hires you out here in the  
8 private sector, as far as needing security.

9 Q. Okay. Would you look at JEX564. Do you see on the top  
10 there, is that a Texas private security registration?

11 A. That's correct.

12 Q. And it looks like a driver's license; correct?

13 A. Yes, sir.

14 Q. Was that issued to Mr. Kelley in June of 2017?

15 A. That's correct.

16 Q. And did Texas issue Mr. Kelley a noncommissioned security  
17 guard license in 2017?

18 MR. STERN: Objection, Your Honor. Relevance.

19 THE COURT: What is the relevance to this?

20 MR. LeGRAND: I'll get to it, Your Honor, real quick.

21 THE WITNESS: That's correct.

22 BY MR. LeGRAND:

23 Q. Okay. Did that require an FBI fingerprint background  
24 check?

25 A. That's correct.

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1 Q. So did the FBI check out Mr. Kelley and tell the state of  
2 Texas whether or not it was okay to issue him a  
3 noncommissioned security guard license?

4 MR. STERN: Objection. Relevance.

5 THE COURT: That's overruled.

6 THE WITNESS: Through the background check that's  
7 conducted through the Texas DPS, who issues the license, it is  
8 determined that he met the qualifications to receive the  
9 license. There was nothing to disqualify him.

10 BY MR. LeGRAND:

11 Q. All right. And would you -- but if he had on his record  
12 at the FBI that he was a convicted domestic violence felon,  
13 hopefully Texas would not have given him a security guard  
14 license; would you agree?

15 A. A felony wouldn't have met the qualifications. They would  
16 have disqualified him.

17 Q. Do you know where he was applying to work, when he got  
18 this security guard license?

19 A. I'm not sure where he applied to work, but I think he was  
20 working for, if I'm not mistaken, there was Schlitterbahn. It  
21 was either Schlitterbahn or an RV park.

22 Q. Would you go to JEX563-001.

23 Is that a Texas Ranger document?

24 A. Yes. It's an email correspondence, December 12, 2017,  
25 from, looks like security at Schlitterbahn.com to our analyst

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1 and one of the majors that's in Company B.

2 Q. So it's from Schlitterbahn to the Texas Rangers during  
3 this investigation?

4 A. Yes. It's to Ranger Analyst Susan Burroughs, and a major  
5 who commands Company B, William Kasper.

6 Q. Did Mr. Kelley work at Schlitterbahn, according to the  
7 Texas Ranger investigation?

8 A. From June 6, 2017 until July 15, 2017, it indicated that  
9 he was employed at the Water Park Management, Inc.  
10 Schlitterbahn Waterpark Resort.

11 Q. Was he a security guard there?

12 MR. STERN: Objection, Your Honor. Again, government  
13 doesn't see the relevance of this line of questioning.

14 THE COURT: Yeah. What is the relevance of this?

15 MR. LeGRAND: I'll show, Your Honor.

16 THE COURT: Let's tie it up.

17 THE WITNESS: That's correct.

18 BY MR. LeGRAND:

19 Q. Well, let's get to the relevance. Ranger Snyder, you are  
20 a Texas Ranger. Do you know what Schlitterbahn is?

21 A. It's a public water park, slides, rides, entertainment.

22 Q. Would you consider it a child's water park?

23 A. Yes.

24 Q. Is it your understanding from your investigation that  
25 Devin Kelley had a history of having a felony and that one of

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1 the reasons he was convicted is because he cracked his son's  
2 skull, fractured his son's skull?

3 MR. STERN: Objection, Your Honor.

4 THE COURT: Yeah. This is not relevant.

5 Next question.

6 BY MR. LeGRAND:

7 Q. Let me ask it this way, Ranger Snyder. Should Devin  
8 Kelley had gotten a security license from the state of Texas,  
9 based on his background?

10 MR. STERN: Objection, Your Honor. Relevance.

11 THE COURT: That question I'll allow.

12 THE WITNESS: Through the background investigation  
13 which was conducted, there was nothing to disqualify him to  
14 receive his security license.

15 BY MR. LeGRAND:

16 Q. If the FBI's database check had been properly populated  
17 with his felony conviction, should he have been allowed to  
18 work at a child's water park as a security guard?

19 MR. STERN: Your Honor, our objection is not just the  
20 relevance of where he worked, but even the fact that he was  
21 able to obtain this permit. It's just simply not relevant to  
22 the issues at hand.

23 THE COURT: Yeah. I'm allowing some in by  
24 background, so I'll allow this. That's overruled.

25

1 BY MR. LeGRAND:

2 Q. You may answer, Ranger.

3 A. If there had been a felony conviction indicated on his  
4 criminal history during the background --

5 Q. He would not have --

6 A. -- as we talked about, I guess, his domestic violence, he  
7 would not have been allowed to obtain a security license.

8 Q. Let me ask it this way. As a Texas Ranger, Ranger Snyder,  
9 with Devin Kelley's background as you know it, from your  
10 investigation, the Texas Ranger investigation, should Devin  
11 Kelley have been allowed to work around children with a  
12 security guard license?

13 THE COURT: That's not relevant. Next question.

14 BY MR. LeGRAND:

15 Q. Ranger Snyder, as a Texas Ranger, do you believe somebody  
16 with a domestic violence felony should have a security license  
17 from the state of Texas, period?

18 MR. STERN: Again, Your Honor, Mr. Kelley's security  
19 license has no relevance to this case.

20 THE COURT: Yeah. So, I mean, there's some minimal  
21 relevance to foreseeability and those kind of issues, but I've  
22 already got the answers to this, so you can move on to  
23 something else.

24 BY MR. LeGRAND:

25 Q. Let me ask it this way.

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1           THE COURT: Well, no. Let's ask something completely  
2 different.

3 BY MR. LeGRAND:

4 Q. Ranger Snyder, I want to go back to JEX597-1. In 2014 he  
5 was arrested for animal cruelty in Colorado; do you see that?

6 A. Yes, sir.

7 Q. Based on your background and your investigation, if El  
8 Paso, if the El Paso County Police Department checked with the  
9 FBI, would they have found out about his felony?

10 A. No, sir.

11 Q. And then right below that when Mr. Kelley purchased the  
12 Glock that we've talked about, the FFL that sold that Glock  
13 didn't find out about Mr. Kelley's felony either; did he?

14 A. No, sir.

15 Q. Now, when Mr. Kelley was able to buy that Glock, after —  
16 he had to lie on his 4473; didn't he? The form that's sent  
17 into the federal government, Mr. Kelley had to lie on that;  
18 didn't he?

19 A. I believe he did, if I remember reviewing it correctly,  
20 yes.

21

22

23

24

25

1                   *(Change in reporter)*

2 BY MR. LEGRAND:

3 Q. Now, when Mr. Kelley was able to buy that Glock, after --  
4 he had to lie on his 4473, didn't he? The form that's sent  
5 into the federal government, Mr. Kelley had to lie on that,  
6 didn't he?

7 A. I believe he did, if I remember reviewing it correctly,  
8 yes.

9 Q. Because isn't one of the questions on the 4473 whether or  
10 not you're a felon?

11 A. That's correct.

12 Q. And Mr. Kelley would have had to say no for that to get  
13 past the FFL store, correct?

14 A. That's correct.

15 Q. Okay. So does that -- the purchase of that Glock, does  
16 that tell Mr. Kelley that he's in the FBI system as a felon?

17                 In other words, the fact that they allowed him to buy that  
18 Glock, does that tell Mr. Kelley that he's in the FBI system  
19 as a felon?

20                 MR. STERN: Objection. Lacks personal knowledge.

21 Outside the scope of this witness's testimony.

22                 THE COURT: I'm not sure I am understanding the  
23 question.

24                 Do you understand the question?

25                 THE WITNESS: Vaguely.

1 THE COURT: Rephrase your question.

2 MR. LEGRAND: I'll rephrase it.

3 BY MR. LEGRAND:

4 Q. When Mr. Kelley -- okay.

5 First of all, Mr. Kelley had go through a background check  
6 with the FBI to buy that Glock, correct?

7 A. That's correct.

8 Q. Do you agree that when the FFL and the FBI allow  
9 Mr. Kelley to buy that Glock, that that indicates to  
10 Mr. Kelley that his fingerprints are not in the system?

11 MR. STERN: Again --

12 THE COURT: That's overruled. You can answer the  
13 question, if you can.

14 THE WITNESS: I think -- would it indicate that? I  
15 can't say what he felt it indicated to him. What it indicates  
16 to him is that he's cleared the system and been allowed to  
17 purchase this firearm and he was able to purchase it and gain  
18 possession of it.

19 BY MR. LEGRAND:

20 Q. And, really, what I'm asking you is does it tell you --  
21 does it tell Ranger Snyder that, apparently, Mr. Kelley's  
22 fingerprints were not in the system?

23 A. Him being allowed to purchase tells me he was cleared --  
24 the system cleared him and did not find any disqualifications  
25 for him not to purchase this weapon.

1 Q. Would the same thing be true for the purchase of the  
2 9-millimeter on October 20th of 2015?

3 A. That's correct.

4 Q. Would the same thing be true for the purchase of the  
5 Ruger AR-556 on April the 7th of 2016?

6 A. That's correct.

7 Q. Would the same thing be true for the issuance of the  
8 noncommissioned security license by the State of Texas on  
9 June 8th, 2017?

10 A. That's correct.

11 Q. Okay. So if you add all these up, there are seven or  
12 eight occasions where Mr. Kelley submitted his fingerprints to  
13 the FBI, and he was not told that he was a felon, correct?

14 A. That's correct.

15 Q. Okay. Do you think that that had a chilling effect on  
16 Mr. Kelley or a boldening effect?

17 MR. STERN: Objection, Your Honor.

18 THE COURT: So you got to make your objections more  
19 specific than just saying "objection."

20 What is your objection?

21 MR. STERN: Objection. Misleading, vague, lacks  
22 personal knowledge of what Mr. Kelley understood or the impact  
23 that a denial or proceed at an FFL would have on him.

24 THE COURT: Okay. Yeah. So it's calling for  
25 speculation, and that's sustained.

1 BY MR. LEGRAND:

2 Q. Do you recall, Ranger Snyder, that you were asked by the  
3 government in your deposition as to whether or not you had  
4 reviewed the body cam videos at Devin Kelley's gate on  
5 November the 1st of 2017?

6 A. Yes, sir.

7 MR. LEGRAND: I'd like to take just a second, Your  
8 Honor, and show a clip from JEX 606.

9 BY MR. LEGRAND:

10 Q. Ranger, do you know for a fact that this video reflects an  
11 event that took place November 1st of 2017?

12 A. That's correct.

13 Q. And that's four days before the shooting at Sutherland  
14 Springs, correct?

15 A. That's correct. Yes.

16 Q. Okay.

17 (*Playing video*)

18 BY MR. LEGRAND:

19 Q. Ranger Snyder, have you seen that video before?

20 A. Yes.

21 Q. Did looking at that clip today refresh your memory?

22 A. Yes.

23 Q. Did you hear in there that Devin Kelley told -- well,  
24 first of all, let me ask it this way: Is there any doubt that  
25 Devin Kelley knew that he was talking to law enforcement

1 officers?

2 A. No. He indicated and referenced them as such.

3 Q. Did you hear Devin Kelley tell those officers that he  
4 didn't like talking to police officers?

5 A. That's correct.

6 Q. Did you hear Devin Kelley tell those officers that he was  
7 carrying a gun?

8 A. If I remember correctly, he motioned to his side and he  
9 said that he had a gun.

10 Q. As a convicted domestic violence felon, was he allowed to  
11 carry a gun?

12 A. On his property?

13 Q. No. On his person.

14 A. On his person? As I answered earlier, there's some  
15 parameters behind being a convicted felon, and I can explain  
16 that. I mean, briefly, is the fact that if he's a convicted  
17 felon and he's put on probation or whatever the service may  
18 be -- which I didn't have that information because his  
19 criminal history didn't indicate that -- but, however,  
20 anything after five years, you're allowed to possess it on  
21 your property.

22 Q. Are you sure it's not in your house?

23 A. Without referencing the material, I want to say property  
24 or maybe residence.

25 Q. And are you sure it's not ten years in Texas?

1 A. I'm thinking it's five.

2 Q. Okay. So do you believe Devin Kelley was within his  
3 rights to carry that gun at the gate in front of those  
4 officers?

5 A. If, in fact, he had a gun. He just motioned to his side,  
6 but his shirt was concealing. I didn't -- if you can -- I  
7 didn't see a gun that he actually displayed. I just saw him  
8 motion to his side indicating he had a gun. I don't know if  
9 it was on his person at that moment.

10 Q. Did you hear him say "I have a gun too" and pat his side?

11 A. I saw him motion to his side and said, "I have a gun."

12 Q. Did you hear him say, "I have a gun too"?

13 A. Uh-huh.

14 Q. Did you hear the word "too"?

15 A. Yes.

16 Q. Okay. Do you know if a federal law bars possession by a  
17 domestic abuse felon of a firearm?

18 A. Ask again, please.

19 Q. Does federal law bar felons -- domestic abuse felons from  
20 possessing or carrying firearms?

21 A. I believe so, yes.

22 Q. Okay. So would Devin Kelley -- on the day at that gate  
23 that you just saw in that clip, would he have been violating  
24 federal law?

25 A. Yes.

1 Q. Is -- the situation in the clip that you just saw at the  
2 gate, you just agreed with me that it violates federal law,  
3 correct, if he was, in fact, carrying a firearm?

4 A. Correct.

5 Q. Okay. And you know from the shooting at Sutherland  
6 Springs that he possessed firearms, correct?

7 A. Correct.

8 Q. That, again, was a violation of the law, correct?

9 A. Yes.

10 Q. When he was at the church and did the shooting, he  
11 violated the law with those firearms --

12 A. Correct.

13 Q. -- in commission of the crime that he committed at the  
14 church, correct?

15 A. That's correct.

16 Q. But just having the firearms also was a violation of the  
17 law, correct?

18 A. Yes, sir.

19 Q. And did you find any evidence whatsoever in your Texas  
20 Ranger investigation that any of the guns that Mr. Kelley used  
21 to commit this crime, this terrible massacre at this church,  
22 were bought other than through federal firearms licensees?

23 A. No evidence indicated such.

24 Q. Were any of them purchased at any kind of market that  
25 criminals are forced to go to because they can't go into a

1 regular store?

2 A. No, sir.

3 Q. Did you see any evidence whatsoever, including the gate --  
4 in other words, I'd already asked you the seven or eight times  
5 that Mr. Kelley was able to pass, apparently, an FBI  
6 fingerprint check -- seven or eight of them, correct?

7 A. Yes, sir.

8 MR. STERN: Objection. "Fingerprint check," Your  
9 Honor?

10 MR. LEGRAND: Yes, fingerprints.

11 MR. STERN: Misleading.

12 BY MR. LEGRAND:

13 Q. Not a fingerprint check. Okay.

14 Four 4473s to purchase guns, correct?

15 A. That's correct.

16 Q. And the others were fingerprint checks, correct?

17 A. Background checks to include, I guess, the fingerprints,  
18 yes.

19 Q. Including the Texas handgun carry permit application?

20 A. That's correct.

21 Q. The security guard application?

22 A. That's correct.

23 Q. And then if we go to the gate incident, does anything  
24 about the gate incident indicate to you that Mr. Kelley  
25 thought he was in the federal FBI database when he confronted

1 those officers and told them that he had a gun?

2 MR. STERN: Objection. Speculation.

3 THE COURT: That's sustained.

4 BY MR. LEGRAND:

5 Q. Ranger Snyder, when -- in the clip that I played for you,  
6 did Devin Kelley look at those officers and indicate to them  
7 that he was carrying a gun?

8 A. He did.

9 Q. And Devin Kelley knew that he was a convicted domestic  
10 violence felon, correct?

11 MR. STERN: Actually, objection. Assumes facts not  
12 in evidence, speculation.

13 THE COURT: Yeah. I get it. You know, so this is  
14 not a jury trial where you have to say it two or three times.  
15 I generally get it the first time.

16 BY MR. LEGRAND:

17 Q. Ranger Snyder, I'm not asking you to guess or speculate as  
18 to what was in Devin Kelley's head.

19 I'm asking you, based on your examination, should -- was  
20 Devin Kelley present at Holloman Air Force Base when he was  
21 convicted of a felony?

22 A. Yes.

23 Q. Did he serve time in jail?

24 A. Yes.

25 Q. Did he serve time in jail for that felony?

1 A. Yes.

2 Q. Based on your background and experience as a -- as a Texas  
3 Ranger, should he have known that he was convicted -- a  
4 convicted felon?

5 A. An individual put through the system, I would -- that  
6 would lead me to believe through -- that he would know, yes.

7 Q. But we have at least seven occasions where Devin Kelley  
8 became aware that the FBI didn't have a record of his felony  
9 conviction, correct?

10 A. His criminal history didn't indicate a felony conviction,  
11 no, sir.

12 Q. And do you agree, based on looking at the video clip that  
13 we looked at, that Mr. Kelley, on November 1st of 2017, four  
14 days before the shooting at Sutherland Springs, was bold  
15 enough to look at two law enforcement officers and tell them,  
16 "I don't talk to police" and "I'm carrying a gun"?

17 A. The video reflected as such.

18 Q. If they had arrested him for carrying that gun, would the  
19 Sutherland Springs shooting have taken place?

20 MR. STERN: Objection. Calls for speculation.

21 THE COURT: Sustained.

22 BY MR. LEGRAND:

23 Q. Let me ask this: If they had arrested him on November 1st  
24 of 2017, would that have resulted, more likely than not, in a  
25 search warrant?

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260

1 MR. STERN: Objection. Calls for speculation.

2 THE COURT: That's sustained.

3 MR. LEGRAND: Can we take a break, Your Honor?

4 THE COURT: Yes.

5 How much more do you have with this witness?

6 MR. LEGRAND: I'm sorry, Your Honor?

7 THE COURT: How much more do you have with this  
8 witness?

9 MR. LEGRAND: Just a few more minutes, Your Honor.

10 THE COURT: Let's take about ten minutes.

11 (Recess)

12 (Open court)

13 THE COURT: Thank you. Please be seated.

14 Anything further?

15 MR. LEGRAND: Yes, Your Honor. Just a few questions.

16 May I proceed?

17 THE COURT: Yes.

18 MR. LEGRAND: Thank you.

19 BY MR. LEGRAND:

20 Q. Ranger Snyder, going back to the gate incident,  
21 November 1st -- first of all, according to JEX 597-1 -- can we  
22 look at that again.

23 You see in 2013 there, Ranger Snyder, when Mr. Kelley was  
24 released from jail?

25 A. Yes. 2013, March 31st.

1 Q. Okay. And if you add five years to that, would that be  
2 March 31st, 2018?

3 A. That's correct.

4 Q. So the gate incident would have been well within that,  
5 correct?

6 A. Yes.

7 Q. So he's not allowed to carry a firearm at the time of the  
8 gate incident, correct?

9 A. That's correct.

10 Q. And you have certain protocols you follow as a Texas  
11 Ranger?

12 A. Yes, sir.

13 MR. LEGRAND: Okay. I'd like to go to Exhibit 507,  
14 please, JEX 507. Can you blow up the box on the bottom right.

15 TECHNOLOGY SPECIALIST: Here?

16 MR. LEGRAND: Yes. Just the bottom half of it, if  
17 you can blow that up.

18 TECHNOLOGY SPECIALIST: Here?

19 MR. LEGRAND: Yeah.

20 BY MR. LEGRAND:

21 Q. This document's from a timeline from the Texas Rangers'  
22 file.

23 Do you understand that, Ranger Snyder?

24 A. Yes.

25 Q. And is it often that Texas Rangers work for local law

1 enforcement, such as district attorneys?

2 A. We assist the local agencies, and sometimes the district  
3 attorney will ask us to perform an investigative lead on  
4 something or to go follow up on something, yes.

5 Q. Okay. I just want to look at the last five bullet points  
6 on this document.

7 It says, "Erin Brassfield contacted Guadalupe County  
8 District Attorney Courtney Hansen and informed her about the  
9 situation and the photos."

10 Do you know what that's about?

11 A. Apparently, there was a sexual assault allegation  
12 investigation being conducted. And apparently, it was  
13 information to Brassfield that Devin Kelley was in possession  
14 of some photos.

15 Q. Could you look at the bullet point right above that.

16 And this also is a result of your Texas Ranger  
17 investigation, correct?

18 A. That's correct.

19 Q. This came from an interview of some kind?

20 A. Yes.

21 Q. And would you read that bullet point?

22 A. "D. Kelley called Erin Brassfield, the second ex-wife of  
23 Donald Brassfield, and informed her he, Devin Kelley, had  
24 found these photos and was unaware of what to do with them."

25 Q. And as a domestic abuse felon, should Devin Kelley have

1 had explicit photos of a minor?

2 A. No, sir, not that I'm aware of.

3 Q. Okay.

4 A. I don't know why he would. I don't know.

5 Q. No. I mean, is he allowed to?

6 A. I don't know. Honestly, I think there's a bunch of felons  
7 out there that's in possession of --

8 Q. I understand.

9 Let's go to the next -- we've already done the bullet  
10 point right after that. Now, the next one down.

11 "When Hansen contacted" -- in other words, Hansen's the  
12 district attorney, correct?

13 "When Hansen contacted Devin Kelley, he was uncooperative  
14 and stated that he was not in possession of any photos and was  
15 unaware of any photos."

16 Have I read that correctly?

17 A. That's correct.

18 Q. And then it says that Hansen contacted the Cibolo police  
19 officers to make contact with Kelley.

20 That's what takes us to the gate scene, correct?

21 A. That's correct.

22 Q. Have you ever been in that situation where a district  
23 attorney asked you to go do something like that?

24 A. I've been in situations where the DA's asked me to conduct  
25 an investigation on an incident, yes.

1 Q. On an individual that might be in possession of some  
2 photos like this? Not specifically --

3 A. Not specifically, but other criminal matters, yes.

4 Q. Okay. What is your protocol as far as checking out the  
5 individual that you're going to go talk to before you go out  
6 there? Do you check them out at all?

7 A. It all depends on the circumstances. If it's an  
8 individual I'm working a case on and the individual's a  
9 suspect, I want to know the background -- as much background  
10 on that individual as I can. And if it's an individual that  
11 I'm going to contact that's going to be a potential witness in  
12 my case, I approach them accordingly and treat them as such.

13 Q. What's that mean? What's your protocol for --

14 A. My protocol's different on both. Meaning, if he's a  
15 suspect target, I want to be more stringent on what I know  
16 about him. I want to know as much as I can about him.

17 If it's a potential witness and I'm going out just to  
18 contact the individual who's going to be a witness for our  
19 case, it's going to be somewhat more lenient. I'm not going  
20 to do a full background check. I'm not going to do -- and  
21 hopefully, by that time, if the DA has asked me to do  
22 something for them on one of their cases to follow up on, they  
23 have that information provided for me already.

24 Q. Well, let's assume these facts that are on this board  
25 here, that Kelley has told somebody he has some certain

1 photographs and that the district attorney contacts him, and  
2 he's being uncooperative and that the district attorney sends  
3 you out there to talk to this uncooperative person.

4 What's the protocol for whether or not you would have  
5 checked them out at all?

6 MR. STERN: Objection. Assumes facts not in  
7 evidence. Calls for speculation.

8 THE COURT: Yeah. That's -- those objections are --  
9 I've got your point. So we're rehashing old stuff.

10 MR. LEGRAND: May I proceed, Your Honor?

11 THE COURT: Yes.

12 BY MR. LEGRAND:

13 Q. Ranger Snyder, what's your protocol for checking out a  
14 person that made --

15 THE COURT: -- go back, Mr. LeGrand, to just -- the  
16 point I just tried to get you to move off of. I got it.

17 BY MR. LEGRAND:

18 Q. So going back to the date of release that's on JEX 597-1,  
19 based on the five years, Ranger Snyder, Mr. Kelley, if he was  
20 in possession of a firearm, could have been prosecuted under  
21 federal or state law?

22 MR. STERN: Objection.

23 THE COURT: So, again -- so an objection's not an  
24 objection unless you give a specific objection. Global  
25 objections are not recognized by the Federal Rules of

1 Evidence.

2 With that said, I know where you're headed. And so this  
3 is asked and answered. And let's move on.

4 MR. LEGRAND: I'll pass the witness, Your Honor.

5 THE COURT: Any cross from the government?

6 MR. STERN: There is, Your Honor. Actually, there's  
7 some lengthy cross. I know it's coming up on 4:30. I don't  
8 know if you want us to proceed now or how you want to handle  
9 your schedule.

10 THE COURT: So I've got an hour and 15 minutes. So  
11 let's just start with what we can do.

12 MR. STERN: Happily, Your Honor.

13 THE COURT: Hopefully, you can finish within that  
14 time.

15 CROSS-EXAMINATION

16 BY MR. STERN:

17 Q. Ranger Snyder, good afternoon.

18 A. Good afternoon.

19 Q. As you recall, my name is Paul Stern. I'm an attorney  
20 with the United States Department of Justice. I want to thank  
21 you for your time here today.

22 A. Yes, sir.

23 Q. I'm actually going to start where opposing counsel left  
24 off, but very quickly because I don't want to belabor the  
25 point.

1       But, Ranger Snyder, you are here as a representative of  
2 the Texas Rangers, correct?

3 A. That's correct.

4 Q. You're not here to represent any other law enforcement  
5 department or agency?

6 A. No, sir.

7 Q. You're not here to represent any other departments or  
8 speak about their policies, protocols, or procedures?

9 A. No, sir.

10 Q. You're not here to testify about the National Instant  
11 Criminal Background Check System, otherwise known as NICS?

12 A. No, sir.

13 Q. You're not here to testify about the Uniform Code of  
14 Military Justice, also known as UCMJ?

15 A. No, sir.

16 Q. You're not here to testify about the Air Force or on  
17 behalf of the Air Force?

18 A. No, sir.

19 Q. Or about the information that the Air Force submits to  
20 NICS when there's a violation of the UCMJ; is that correct?

21 A. That's correct.

22 Q. In fact, you're not here to testify about what a law  
23 enforcement -- a local law enforcement would find if they did  
24 a search regarding a violation of the UCMJ that was submitted  
25 by the Air Force; is that correct?

1 A. That's correct.

2 Q. Now, I know opposing counsel talked to you at some length  
3 about some interactions Devin Kelley had with a few law  
4 enforcement entities. And I'd like to briefly talk about  
5 them.

6 Mr. LeGrand talked about the time the Cibolo police  
7 detectives went to the Kelley property on November 1st.

8 We just spoke about that, correct?

9 A. Yes, sir.

10 Q. But, again, you're not here to testify on behalf of the  
11 Cibolo Police Department, correct?

12 A. No, I'm not.

13 Q. Or their policies or procedures?

14 A. No, sir.

15 Q. In fact, when the detectives went to their property, Devin  
16 Kelley wasn't a suspect, was he?

17 A. Not that I'm aware of.

18 MR. LEGRAND: Object. That calls for speculation.

19 THE COURT: He answered.

20 BY MR. STERN:

21 Q. What was the purpose --

22 MR. STERN: Sorry. May he answer?

23 THE COURT: He answered.

24 BY MR. STERN:

25 Q. Okay. What was the purpose of the Cibolo police

1      detectives going to the property on that day?

2      A. An attempt to obtain some photographs that he alleged or  
3      made a statement that he had regarding a sexual assault  
4      investigation that was being conducted.

5      Q. So, in fact, the detectives thought Mr. Kelley would  
6      provide them evidence, correct?

7      A. That's correct.

8      Q. In fact, Mr. Kelley was a family member of a potential  
9      victim?

10     A. That's correct.

11     Q. And so as you suggested, there may -- would be different  
12    protocols for approaching someone who is a family member of a  
13    victim as opposed to a suspect?

14     A. Yes.

15     Q. And so you can't testify about what the -- whether the  
16    Cibolo police detective would have checked any databases  
17    before approaching the property?

18     A. That's correct.

19     Q. If you recall, Mr. LeGrand asked you some questions about  
20    Mr. Kelley's misdemeanor for animal cruelty.

21       Do you recall that?

22     A. Yes, sir.

23     Q. In fact, in August 2014, Mr. Kelley was arrested for  
24    animal cruelty, correct?

25     A. Yes, sir.

1 Q. And that arrest resulted in a misdemeanor?

2 A. That's correct.

3 Q. You don't know if that punishment or that -- or that  
4 misdemeanor would have changed had information been in the  
5 NICS system, correct?

6 A. If I remember correctly, I believe that charge may have  
7 been a Class C misdemeanor.

8 Q. Uh-huh.

9 A. And Class Cs are up to fine only -- fine only. They're  
10 not reported -- that's not an offense -- or a Class C is not  
11 an offense to be reported to the NICS system to be part of  
12 criminal history. It wouldn't have showed up.

13 Q. And, in fact, that punishment, that Class C misdemeanor  
14 you're referring to, that wouldn't have changed classes simply  
15 because Devin Kelley's information from the Air Force may have  
16 been in the system, correct?

17 A. That's correct.

18 Q. And, finally, Mr. LeGrand talked about Devin Kelley maybe  
19 being pulled over for speeding.

20 Do you recall that testimony?

21 A. Yes, sir.

22 Q. But there's no evidence that he was ever pulled over with  
23 a firearm in his back seat?

24 A. Not that I -- not that we found.

25 Q. Okay. And I want to shift focus and talk about the things

1 you are here to testify about.

2       And, Ranger Snyder, you have to forgive me. I'm going to  
3 be pretty direct right upfront. And so it's not to upset  
4 anyone, but we need to get this testimony out. So bear with  
5 me, please.

6 A. Sure.

7 Q. Ranger Snyder, when Devin Kelley approached the church on  
8 November 5th, 2017, what was he wearing?

9 A. I believe it was described as a mask covering or a  
10 covering -- face covering described as a mask of some sort,  
11 black, I believe. Black -- all black, black tactical vest and  
12 military -- described as military style.

13 Q. You talked about the mask he was wearing.

14       Did that mask depict a white skull similar to the one used  
15 by Marvel Comics character the "Punisher"?

16 A. Yes.

17 Q. And was Devin Kelley wearing black tactical gear?

18 A. That's correct.

19 Q. Was he wearing body armor?

20 A. Yes.

21 Q. Is it illegal for convicted felons to possess body armor  
22 in Texas?

23 A. Yes.

24 Q. Can you please tell the Court what happened when Devin  
25 Kelley arrived at the church.

1 A. Through the investigation, it revealed that, through the  
2 witnesses and the interviews, he pulls up front and he exits  
3 his vehicle. And he starts -- or he stands in front of the  
4 church or the entryway, and he begins discharging his rifle.  
5 And he works in a L-shaped pattern.

6 The church faces -- the way the church faces, off the back  
7 side of the church, it is off the children's Bible study  
8 rooms. And he makes that L within there, firing from the  
9 outside into the wall, into the inside of the church.

10 Q. So he starts firing from outside the church?

11 A. That's correct.

12 Q. Does he spray the side of the church?

13 A. Yes.

14 Q. He shoots through the walls?

15 A. Yes. I think it was a total of 250-plus times.

16 MR. LEGRAND: In fact, if we pull up Joint  
17 Exhibit 669. Go to the first highlighted portion. Blow up  
18 that section, please.

19 BY MR. LEGRAND:

20 Q. Ranger Snyder, will you read that section, please.

21 A. "11:15 a.m" -- I'm sorry. "11:15 a.m., suspect exited the  
22 SUV wearing all black tactical gear, protective vest,  
23 white-print skull mask, and armed with a Ruger semiautomatic  
24 rifle and a Glock 9-millimeter handgun. Suspect opened fire  
25 on the church from outside (254 shots outside). The skull

1 print on the mask is indicative of the Marvel Comics character  
2 the 'Punisher.'"

3 Q. Devin Kelley shot 254 shots outside the church; is that  
4 correct?

5 A. Yes, sir.

6 Q. And as you indicated before, he sprayed the church,  
7 correct?

8 A. That's correct.

9 Q. He didn't target one specific location of the church?

10 A. What we found in common is that they were all within a  
11 line or some sort of line. We discussed and determined that  
12 it was -- it would be about head-high of individuals sitting  
13 in a pew from the outside.

14 Q. Multiple pews?

15 A. Correct.

16 Q. Sorry to be graphic, but just to make sure that we're  
17 clear, you're suggesting that at the level that he was  
18 shooting, they were essentially headshots along the side of  
19 the church; is that correct?

20 A. Yes.

21 Q. Did he retrieve more ammunition from his vehicle after he  
22 started shooting?

23 A. He did afterwards and before he entered the church.

24 Q. And then he eventually made his way into the church,  
25 correct?

1 A. That's correct.

2 Q. How many shots did Kelley fire inside the church?

3 A. Inside the church was another 250-plus.

4 Q. Let me make sure we're clear. If we could pull up the  
5 next highlighted portion of this document.

6 A. 196.

7 Q. It reads, "11:20 a.m., suspect entered the church building  
8 through the main entrance. Suspect began shooting church  
9 attendees within the sanctuary room (196 shots inside)."

10 Is that consistent with your investigation?

11 A. Yes, sir.

12 Q. So if we look further down, 450 total shots fired by  
13 suspect; is that correct?

14 A. That's correct.

15 Q. And how long did the shooting last?

16 A. Approximately seven and a half minutes, 7 minutes and  
17 24 seconds.

18 Q. And how do we know -- or how do the rangers know how long  
19 the shooting lasted?

20 A. We monitored the time, the counter -- or the time count on  
21 the video.

22 Q. When you talk about a video, was there a video camera in  
23 the church that recorded the events in real time?

24 A. Yes. Upon arrival, we learned that there was an  
25 individual in the sound booth and that the church would video

1       their services on Sunday morning to put them up on YouTube.

2   Q. And having looked at -- have you looked at the video?

3   A. Yes, sir, I have.

4   Q. Having looked at the video, did Devin Kelley kill men?

5   A. Say that again. I didn't get the last word.

6   Q. Did Devin Kelley kill men?

7   A. Yes.

8   Q. Did he kill women?

9   A. Yes.

10   Q. Did he kill a pregnant woman?

11   A. Yes.

12   Q. Did he kill children?

13   A. Yes.

14   Q. Did he walk up and down through the aisles looking for  
15   targets?

16   A. Yes, he did.

17   Q. Did he shoot people at close range?

18   A. Yes.

19   Q. Did he shoot people who were already shot or injured?

20   A. Yes.

21   Q. Did the church fill with smoke?

22   A. Yes.

23   Q. How many people did Devin Kelley kill on November 5th,  
24   2017?

25   A. Twenty-six.

1 Q. How many people did he injure?

2 A. Somewhere like 14, 16, maybe.

3 Q. Okay.

4 A. I'd like to look back at that if I could.

5 Q. Could it be that he injured more than 20?

6 A. Yes.

7 Q. Thank you.

8 MR. STERN: Your Honor, at this time, the government  
9 requests that Your Honor watch in chambers, and at a time  
10 convenient for Your Honor, so long as it is before the close  
11 of this trial, that it watches Government Exhibit 141.

12 MR. ALSAFFAR: Can we approach, Your Honor?

13 THE COURT: Come up.

14 (At the bench)

15 THE COURT: So it's offered. It's objected to.

16 What's the objection?

17 MR. ALSAFFAR: First, I just want to clarify, this is  
18 the church video.

19 THE COURT: Right.

20 MR. ALSAFFAR: Okay. Your Honor, our objection,  
21 first of all, is primarily relevance --

22 COURT REPORTER: I'm sorry. "Primarily"?

23 MR. ALSAFFAR: Oh, can you not hear me?

24 COURT REPORTER: There's a mic right there.

25 THE COURT: This is the mic.

1                   MR. ALSAFFAR: Relevance, Your Honor. To put this  
2 video into evidence -- no one's contesting these people were  
3 brutally murdered. No one's contesting that what's going  
4 through --

5                   COURT REPORTER: I'm sorry. I'm having a hard time  
6 hearing.

7                   MR. ALSAFFAR: Okay. I'm sorry. I just don't want  
8 this -- no one's contesting that this is a horrific shooting.  
9 No one's contesting on the liability phase that he was -- he  
10 was determined to kill these poor people.

11                  This may be relevant in the damages phase, when we're  
12 talking about the time and amount of suffering that the  
13 plaintiffs went through, conceiving -- being aware of their  
14 impending death. But in a liability phase, it makes no sense,  
15 under relevance grounds, Your Honor. It doesn't make one fact  
16 more -- necessary.

17                  MR. STERN: Your Honor, the United States disagrees  
18 for many reasons. First, the motive has been put on the table  
19 squarely by the Court.

20                  *(Static noise)*

21                  COURT REPORTER: I'm sorry.

22                  MR. STERN: Your Honor, it's directly relevant on  
23 three grounds. One motivation. The Court squarely put  
24 forward and asked that the matter of fact needs to be  
25 addressed in this trial. To the extent plaintiffs are

1 suggesting that Michelle Shields was the target, it is clear  
2 from this video that the entire congregation is the target.  
3 And that is a crucial piece of evidence.

4 Second, with regard to preventability, the notion that  
5 where he got the gun is a substantial factor -- is I think  
6 belied by watching the video and recognizing that he would  
7 have done this regardless of where he got the firearms.

8 And, third, to the extent that we would ever need to get  
9 to -- which the United States strongly states that we will  
10 never have to get to, the idea of apportioning fault of the  
11 Air Force compared to Devin Kelley and what he did that day is  
12 directly relevant to the defense.

13 MR. ALSAFFAR: If I may, Your Honor, I need to --  
14 because now we need to add speculation to this whole thing,  
15 because now the government's trying to say we can now divine  
16 what Devin was -- Devin was thinking just by watching the  
17 video.

18 But let me go back to the primary point on that, because  
19 the government's completely wrong on this. We don't need to  
20 prove Michelle Shields was the only target. We absolutely  
21 believe the church was the target. It was the family church.  
22 We have no question about that. And that was a  
23 domestic-related issue. It was the family church. That's not  
24 even relevant. We -- that.

25 So why offering this video now -- it's just for prejudice.

1 It's serving no purpose to advance the ultimate issue.

2 THE COURT: So --

3 MR. STERN: Your Honor --

4 THE COURT: One second. One second. So they have  
5 raised proportionate liability. So at some point, the Court's  
6 got to determine how much, if any, culpability needs to be  
7 assigned to Devin Kelley, to perhaps Academy when we get  
8 there. And so, I mean, this liability standpoint, I mean, am  
9 I not -- after we make some assessments on liability, am I not  
10 making assessments on proportionate liability at this point,  
11 and then we move to damages?

12 MR. ALSAFFAR: Of course, Your Honor.

13 THE COURT: So how can you say it's not relevant?

14 MR. ALSAFFAR: Well, the question is what -- what  
15 would watching a video of something we all agree happened and  
16 stipulated to -- would actually make anyone decide  
17 proportionate responsibility in one way or another? We're not  
18 -- it's not in dispute.

19 MR. STERN: Your Honor --

20 MR. ALSAFFAR: It is not in dispute that he did this.

21 MR. STERN: Your Honor --

22 THE COURT: Okay.

23 MR. ALSAFFAR: And so --

24 THE COURT: Okay. So objection's noted. Overruled.

25 141's admitted.

1 MR. STERN: Can I say one more point, Your Honor?

2 THE COURT: Yeah. Uh-huh.

3 MR. STERN: If the plaintiffs are stipulating that  
4 Michelle Shields was not the target, and you have a footnote  
5 in your order --

6 MR. ALSAFFAR: We're not stipulating that. We're not  
7 stipulating that.

8 MR. STERN: That's exactly what you just said.

9 MR. ALSAFFAR: -- both claims at the same time.

10 MR. STERN: -- the church. That is directly relevant  
11 for motivation as well.

12 MR. ALSAFFAR: Other things the same -- no, we do  
13 not, Your Honor.

14 THE COURT: So now I know their point. And so the  
15 objection's are noted. Overruled.

16 And one -- watch it sometime this week after court  
17 proceedings are adjourned.

18 MR. STERN: Thank you.

19 *(Discussion off the record)*

20 *(At the bench)*

21 THE COURT: You want the video sealed?

22 MR. STERN: Yes, Your Honor. I think the FBI --  
23 Jamal, you want to come back up?

24 COURT REPORTER: Hold on a second.

25 *(Discussion off the record)*

1                   *(At the bench)*

2                   THE COURT: So why is the video sealed?

3                   MR. STERN: Well, the Texas Rangers and the FBI have  
4 requested that this video not be released -- that it stays  
5 under seal. In fact, I've just been handed a motion from DPS  
6 that either -- has either been filed or will be filed, asking  
7 that this video be under seal. They're concerned about  
8 copycats. They're concerned about giving it out.

9                   So we support their request. It's not the government's  
10 request; although, the FBI has indicated to me that there's  
11 strong preference to keep this under seal.

12                  Mr. Alsaffar, insofar as -- plaintiffs, they don't need to  
13 watch this video. I just ask Your Honor to watch it in  
14 chambers before the close of the hearing.

15                  THE COURT: So what's the plaintiff say about sealed?

16                  MR. ALSAFFAR: I do not oppose that, Your Honor.

17                  THE COURT: You don't oppose.

18                  Okay. So at this point, I'm going to grant the sealing  
19 request. And then let me tell you, as soon as the media come  
20 down on me, we'll have a hearing on that with the media  
21 present. If I get an objection from the media, then we'll  
22 figure out at that point what to do.

23                  MR. STERN: Thanks, Judge.

24                  MR. ALSAFFAR: Thank you, Your Honor.

25                  *(Open court)*

1 THE COURT: You may continue.

2 BY MR. STERN:

3 Q. Ranger Snyder, as you already alluded to, you were one of  
4 the lead investigators on this case, correct?

5 A. That's correct.

6 Q. And you helped investigate Devin Kelley's background?

7 A. Yes.

8 Q. Can you walk me through some of the steps of that  
9 investigation?

10 A. So through the -- through the investigation -- I mean,  
11 once we identified who the suspect was that was at the church,  
12 who fled from the church -- of course, after getting our  
13 command post set up and our command structure in line and in  
14 place, we get an analyst on board and we provide that  
15 information to our analyst who is going to be working along  
16 with us.

17 And once we provide her with that information, we request  
18 a complete workup, is what we refer to it as, on this  
19 individual to gain his background. That includes criminal  
20 history, his driver's license. The whole workup is his whole  
21 history.

22 Q. And the Texas Rangers conducted interviews --

23 A. Yes.

24 Q. -- of those people associated or who knew Devin Kelley.  
25 Fair?

- 1 A. That's correct.
- 2 Q. They also obtained evidence from Devin Kelley's iCloud  
3 account?
- 4 A. Yes.
- 5 Q. And obtained material from his social media?
- 6 A. That's correct.
- 7 Q. I think, as you stated before, the FBI supported the Texas  
8 Rangers in this investigation?
- 9 A. That's correct.
- 10 Q. As did the ATF?
- 11 A. Yes, sir. That's correct.
- 12 Q. The Texas Rangers created timelines for events based on  
13 the information that was obtained?
- 14 A. That's correct.
- 15 Q. Also created summaries of the collected evidence?
- 16 A. Yes, sir.
- 17 Q. And those summaries were based on the best available  
18 evidence at the time?
- 19 A. Yes, sir.
- 20 Q. I'd like to discuss some of that evidence with you today.  
21 If we could pull up Joint Exhibit 700, please. 700.
- 22 TECHNOLOGY SPECIALIST: Yes.
- 23 MR. STERN: Thank you.
- 24 BY MR. STERN:
- 25 Q. Ranger Snyder, are you familiar with this document?

1 A. Yes, sir.

2 Q. What is it?

3 A. It's a summary of Devin Kelley's iCloud account.

4 Q. Will you please read the first highlighted paragraph.

5 A. The bullet point, "Notes - Kelley had numerous notes  
6 within the account. The notes included reminders of getting  
7 ammo, deleting old iPhones, clearing his social media  
8 accounts, et cetera. The dates these relevant notes were  
9 created indicate he had planned this shooting for quite some  
10 time, as early as July 2017."

11 Q. Okay. So we'll discuss these notes in greater detail  
12 later.

13 But according to this summary created by the Texas  
14 Rangers, there was evidence indicating that Kelley had planned  
15 the shooting for quite some time, as early as July 2017; is  
16 that correct?

17 A. That's indicated in this document, yes.

18 Q. Correct.

19 Can you read the second paragraph, please.

20 A. The bullet point "screenshots" -- the screenshots --  
21 "Kelley saved screenshots to his device or the cloud. Some of  
22 these screenshots include his correspondence on YouTube on how  
23 to make silencers, research on mass shootings (Columbine), and  
24 research on characteristics of mass shooters."

25 Q. And then if we look at the bottom half of this page, we

1 see three columns. Let's take a look at the left-hand side of  
2 the exhibit.

3 What does that depict?

4 A. There's some sort of video and context below it. I  
5 believe it looks like it's discussing silencers.

6 Q. So would this be the YouTube clip that Devin Kelley  
7 commented on regarding how to make silencers?

8 A. Yes, sir.

9 Q. And would you read -- can you read his comment starting  
10 with "the freeze plugs."

11 A. Let's see, "the freeze plugs."

12 "So they obviously need a hole for the bullet to pass  
13 through. But my question is, really, if the holes are drilled  
14 but the plugs are" -- and it ended -- it ends there.

15 Q. So does this indicate to the Texas Rangers that he was  
16 learning how to make his own silencer?

17 A. The context in the video, yes.

18 Q. Taking a look at the middle screenshot that -- Kelley's  
19 research from SchoolShooters.info?

20 A. That's correct.

21 Q. Take a look at the highlighted portion. I know it's  
22 difficult to read. If we can sort of blow it up.

23 Does that say, "Eric and Dylan on Trial"?

24 A. That's correct, yes.

25 Q. This is post -- I'm sorry. This shows an article entitled

1 "Eric and Dylan on Trial" and discusses why the Columbine  
2 massacre is still so popular many years later.

3 Is that fair?

4 A. Yes, sir.

5 Q. Do you know how the shooters who committed the Columbine  
6 massacre got their weapons to commit the mass killing?

7 A. No, sir.

8 Q. Would it surprise you to learn that they purchased their  
9 firearms through a straw purchaser?

10 MR. LEGRAND: Your Honor, object. That's leading,  
11 suggestive, and it calls for speculation. He's already  
12 answered.

13 THE COURT: He's already answered he doesn't know.

14 BY MR. STERN:

15 Q. Taking a look at the third screenshot, is this an article  
16 that discusses characteristics of mass shooters?

17 A. Yes, sir.

18 Q. Okay. Let's move to the next page. Will you read the  
19 highlighted portion, please, sir.

20 A. "Photographs - there were numerous images within  
21 Kelley's -- within Kelley iCloud account that depict him  
22 wearing the same type of tactical gear as when he committed  
23 the mass murders in Sutherland Springs."

24 Q. Okay. And, in fact, some of those photos are the  
25 photographs that were found on Devin Kelley's iCloud account?

1 A. That's correct.

2 Q. And in at least two of those pictures, he's wearing the  
3 "Punisher" mask?

4 A. That's correct.

5 Q. In at least two of those, if not three of those, pictures,  
6 he is wearing his tactical armor that he used to commit the  
7 shooting, correct?

8 A. Yes, sir.

9 Q. In fact, Devin Kelley had many more pictures of him  
10 holding firearms in menacing poses on his social media?

11 A. Correct.

12 Q. Let's take a look at some of those pictures.

13 Joint Exhibit 684, Devin Kelley had this photograph on his  
14 iCloud account, correct?

15 A. That's correct.

16 Q. And this picture is believed to be Devin Kelley?

17 A. I can't reference it to -- believe to be Devin Kelley.

18 All I can say is it's a subject standing there in green  
19 tactical gear with the same kind of mask, some eye protection  
20 and a rifle.

21 Q. Do you recall in your -- do you recall providing a  
22 deposition here in this case?

23 A. I do.

24 Q. And do you recall in your deposition saying that you  
25 believed this was Devin Kelley?

1 A. I don't believe it was -- if it was this photo, I don't  
2 recall that, no.

3 Q. It's okay.

4 Nonetheless, this was in Devin Kelley's iCloud account,  
5 correct?

6 A. That's correct.

7 Q. Okay. Let's take a look at Joint Exhibit 682.

8 This is another photograph of Devin Kelley taken from his  
9 social media account?

10 A. That's correct.

11 Q. And 681, this is yet another picture of Devin Kelley that  
12 was taken from his social media account?

13 A. That is correct.

14 Q. Pull up Joint Exhibit 686.

15 I believe this is one of the photographs that were on the  
16 summary of the iCloud account?

17 A. That's correct.

18 Q. Is that believed to be the same Glock that was recovered  
19 at the church?

20 A. Yes, sir.

21 Q. If you look underneath his pinky, is that an extended  
22 magazine?

23 A. Yes, sir.

24 Q. Does that magazine hold more than the standard rounds for  
25 a Glock clip?

1 A. That's correct.

2 Q. Taking a look at Joint Exhibit 691, is that the mask Devin  
3 Kelley wore when he committed the mass shooting?

4 A. Yes, sir.

5 Q. Is that the firearm he used?

6 A. Yes, sir.

7 Q. Taking a look at Joint Exhibit 687, this is a photo of a  
8 shotgun taken from Devin Kelley's social media account; is  
9 that correct?

10 A. That's correct.

11 Q. Are you aware that Danielle Smith, Devin Kelley's widow,  
12 testified that he bartered for this shotgun?

13 A. No, I'm not.

14 Q. Okay. But you've never seen any ATF 4473 form associated  
15 with this shotgun, correct?

16 A. That's correct.

17 Q. So according to Texas Rangers, he obtained this firearm  
18 from a non-FFL?

19 MR. LEGRAND: Your Honor, we object. I mean, that  
20 asks this witness to assume that -- first of all, it asks this  
21 witness to assume that that picture's a gun belonging to Devin  
22 Kelley. That calls for speculation.

23 THE COURT: State your question one more time.

24 BY MR. STERN:

25 Q. This photograph was taken from Devin Kelley's social media

1 account, correct?

2 A. That's correct.

3 Q. And are you aware that his widow, Danielle Smith, already  
4 testified that Devin Kelley bartered for a shotgun online?

5 A. No, sir, I'm not.

6 Q. But you have never seen any ATF 4473 form associated with  
7 Devin Kelley purchasing a shotgun?

8 MR. LEGRAND: Asked and answered, Your Honor.

9 THE COURT: He hasn't answered that. That's  
10 overruled.

11 BY MR. STERN:

12 Q. You can answer.

13 A. I haven't seen that.

14 Q. So according to the Texas Rangers -- or as far as the  
15 Texas Rangers are aware, Devin Kelley obtained this shotgun  
16 through a non-FFL; is that correct?

17 MR. LEGRAND: Your Honor, we object. There is still  
18 no showing that that's -- it was -- showing that it's on Devin  
19 Kelley's Facebook account doesn't prove that it's Devin  
20 Kelley's gun. We object on that --

21 THE COURT: That testimony came through Danielle.  
22 That's overruled.

23 BY MR. STERN:

24 Q. You can answer it.

25 A. We have no evidence supporting that the Federal Firearms

1 License application was completed for this particular firearm,  
2 and there was nothing that came back for us to even run a  
3 check on this firearm.

4 Q. Thank you. Thank you.

5 Take a look at Joint Exhibit 502-128. This is another  
6 picture that was retrieved from Devin Kelley's social media  
7 account, correct?

8 A. That's correct.

9 Q. Okay. If we look at the title, it's "Rifle Mod Pew Pew."  
10 Do you see that?

11 A. Yes, sir.

12 Q. Do you take "mods" to mean "modification"?

13 A. Yes, sir.

14 Q. This is a picture of Devin Kelley showing all the various  
15 modifications he made to his AR-556, correct?

16 A. That is correct.

17 Q. Did the Texas Rangers write those descriptors on when they  
18 received the photograph?

19 A. We took note of those -- or of this photograph, yes.

20 Q. You took note, but you didn't write the descriptors,  
21 correct?

22 A. That's correct. We just identified the rifle as it -- as  
23 it -- as it is.

24 Q. But you obtained this from Facebook as it -- as it was?

25 A. That's correct.

1 Q. Okay. So the descriptors were already on the picture?

2 A. Yes, I believe so.

3 Q. Take a look at Joint Exhibit 502-39.

4 This is another photograph from Devin Kelley's Facebook  
5 account, correct?

6 A. That's correct.

7 Q. He made this post on October 29th, 2017, seven days before  
8 the shooting. Is that accurate?

9 A. Yes, sir.

10 Q. It's a picture of his AR, and it's titled "She's a bad  
11 bitch"?

12 A. That's correct.

13 Q. Ranger Snyder, I'd like to now discuss some of Devin  
14 Kelley's iCloud notes obtained by the Texas Rangers.

15 A. Yes, sir.

16 Q. Okay. And, again, according to the summary written by the  
17 Texas Rangers, his iCloud notes indicated that he had planned  
18 this shooting for quite some time, as early as July 2017,  
19 correct?

20 A. Indicated in that summary, yes. I'm not -- I'm not  
21 sure -- I can't put a name on that summary, but yes.

22 Q. According to that summary, correct.

23 Taking a look at Joint Exhibit 583-5 -- pull that up -- "I  
24 am the angel of death. No one can stop me."

25 Did I read that correctly?

1 A. That's correct.

2 Q. This was one of Devin Kelley's iCloud account notes,  
3 correct?

4 A. Yes, sir.

5 Q. And it was created in July 2017?

6 A. That's correct.

7 Q. It's the same month the Texas Rangers summary noted that  
8 he started planning the shooting?

9 A. That's correct.

10 Q. Taking a look at Joint Exhibit 583-2. Blow that one up.  
11 "Surprise speed violence of action."

12 Did I read that correctly?

13 A. Yes, sir.

14 Q. Do you know what that means?

15 A. Surprise speed violence of action.

16 Q. Would it indicate to you that someone is preparing --  
17 preparing to act violently?

18 A. I would -- I would consider that, yes. It would be  
19 concerning, I guess you could say.

20 Q. Thank you.

21 And this note was created May 26, 2017; is that correct?

22 A. That's correct.

23 Q. Taking a look at Joint Exhibit 583-11, a set of these  
24 notes relate to firearms. Is that fair?

25 A. Yes, that's fair.

1 Q. What is a "ProMag vert"?

2 A. You're asking me what --

3 Q. I'm sorry. Yes.

4 Do you know what a "ProMag vert 5.3 ounce" is?

5 A. It's a -- I guess it's a brand of a magazine and the  
6 weight of it.

7 Q. What about "Magpul"? Do you know what a "Magpul" is?

8 A. This is the little handgrip that you mount underneath the  
9 barrel at the foot of the rifle.

10 Q. Taking a look at all of these notes, would it be fair to  
11 conclude that these are weights that Kelley was preparing his  
12 firearm to -- in order to be -- in order for his firearm to be  
13 a certain weight?

14 A. According to the notes, I would gather -- I would conclude  
15 that, yes.

16 Q. Thank you.

17 And this was created August 7th, 2017?

18 A. That's correct.

19 Q. Taking a look at Joint Exhibit 583-13.

20 And same with this note. Would it be fair to assume that  
21 Kelley was weighing his equipment?

22 A. Yes, sir.

23 Q. And that he was calculating the weight of his rifle with  
24 everything on it?

25 A. Yes, sir.

1 Q. Was he comparing weights when the items were wet versus  
2 dry?

3 A. That's correct.

4 Q. And this was created August 15th, 2017?

5 A. Yes, sir.

6 Q. Taking a look at Joint Exhibit 583-17.

7 Now, this one was created October 26th, 2017, correct?

8 A. That's correct.

9 Q. And that's ten days before the shooting?

10 A. Yes, sir.

11 Q. A note to himself to trash trailer. You see that, where  
12 it reads "trash trailer"?

13 A. Yes, sir.

14 Q. "Oil change"?

15 A. Yes, sir.

16 Q. "Turn off card"?

17 A. Yes, sir.

18 Q. "Get a pack pack for more ammo"?

19 A. Yes, sir.

20 Q. "Get more PMAGs"?

21 A. Yes, sir.

22 Q. Again, what are PMAGs?

23 A. It's a type of magazine. It holds ammo that inserts in  
24 the bottom of the rifle.

25 Q. So on October 26th, he was making a note to himself to get

1 more magazines?

2 A. That's correct.

3 Q. And then it says, "Try on and reorganize gear."

4 Did I read that correctly?

5 A. Yes, sir.

6 Q. Let's move to the next one, Joint Exhibit 583-18.

7 And this note was created October 28th, 2017, correct?

8 A. Correct.

9 Q. Eight days before the shooting?

10 A. Correct.

11 Q. Do you see where it's a note that appears to be to himself  
12 to delete his social media?

13 It says, "Delete Instagram and FB"?

14 A. Yes, sir.

15 Q. Would it be fair to assume that that's Facebook?

16 A. Correct.

17 Q. You see where it says, "Clear YouTube and Safari"?

18 A. Yes, sir.

19 Q. And it says above that, "Stuff in car"?

20 A. Correct.

21 Q. And, finally, the last one -- oh, I'm sorry. The one  
22 before that, "Block Sarah and David on all social media and  
23 GoPhone"?

24 A. Yes, sir.

25 Q. Do you know what a GoPhone is?

1 A. It's a pay-as-you-go-type phone, pay for your minutes.

2 Q. Okay. And finally the last one, "Destroy old iPhone."

3 Did I read that correctly?

4 A. Correct.

5 Q. So eight days before the shooting, Devin Kelley gave --  
6 sent a note to himself or created a note to himself to destroy  
7 an old iPhone?

8 A. That's correct.

9 Q. Taking a look at Joint Exhibit 583-19.

10 This note was also created October 28th, 2017, correct?

11 A. Yes, sir.

12 Q. Eight days before the shooting?

13 A. Yes, sir.

14 Q. Look at the first one, "Put together .22 kit."

15 Did I read that correctly?

16 A. Yes, sir.

17 Q. Do you know what a .22 kit is?

18 A. I'm guessing it would be his -- the handgun that --  
19 the .22-caliber handgun and its accessories.

20 Q. That's okay. And I don't want you to speculate. If you  
21 don't know, that's fine. I just want to make sure --

22 A. Don't know what he's referencing here. I don't know.

23 Q. Fair enough. Thank you.

24 It also reads "Then put it in a backpack," correct?

25 A. Correct.

- 1 Q. "Roll a joint"?
- 2 A. Yes, sir.
- 3 Q. "Change out all batteries"?
- 4 A. Yes, sir.
- 5 Q. "Antidiarrhea"?
- 6 A. Yes, sir.
- 7 Q. Did you come to learn that Devin Kelley was taking
- 8 antidiarrhea mediation?
- 9 A. I was not aware.
- 10 Q. Okay. "Remove all weed stuff from house"?
- 11 A. Yes, sir.
- 12 Q. And "put mag funnel back on"?
- 13 A. Yes, sir.
- 14 Q. Again, you take "mag" to mean "magazine"?
- 15 A. Yes, sir.
- 16 Q. One more, please. If we can go to Joint Exhibit 583-20.
- 17 This note was created October 30th, 2017, correct?
- 18 A. Yes, sir.
- 19 Q. Six days before the shooting?
- 20 A. Yes, sir.
- 21 Q. Reminder to "check the tire pressure"?
- 22 A. Correct.
- 23 Q. "Charge her GoPhone"?
- 24 A. Correct.
- 25 Q. "Add cash to card"?

1 A. Yes, sir.

2 Q. "Make sure her card is in her pocket"?

3 A. Yes, sir.

4 Q. "Find location for push knife"?

5 A. Correct.

6 Q. "Put gun stuff in car when Danielle doesn't notice"?

7 A. Yes, sir.

8 Q. "Rifle into guitar case"?

9 A. Yes, sir.

10 Q. "Put dog tags for Michael in buried location"?

11 A. Yes, sir.

12 Q. Is it fair to suggest that, by putting the rifle into his  
13 guitar -- or into a guitar case, he was concealing the rifle?

14 A. It's fair.

15 Q. Is it fair to suggest that when he was putting the gun  
16 stuff in the car when Danielle doesn't notice, that he was  
17 concealing his intent to at least put the gun stuff in the  
18 car?

19 A. Correct.

20 Q. And it says, "Put dog tags for Michael in buried  
21 location."

22 Did I read that correctly?

23 A. Yes, sir.

24 Q. Fair to assume that Devin Kelley was hiding dog tags for  
25 his son in a buried location?

1 A. Yes, sir.

2 Q. And this note was created five days before the shooting,  
3 correct?

4 A. Yes, sir.

5 Q. Thank you.

6 I'm going to transition and talk about some of Devin  
7 Kelley's purchases. If we can go to Joint Exhibit 544.

8 I'm not going to be able to read that.

9 Ranger Snyder, are you familiar with this document?

10 A. Yes, sir.

11 Q. What is it?

12 A. It's a Financial Crimes Enforcement Network -- it's, I  
13 guess, their purchases or assets, their credit-type report.

14 Q. So is it fair to say that after an event such as a mass  
15 shooting, the Treasury Department will be contacted and run  
16 one of these reports for suspicious activity?

17 A. Yes, sir.

18 Q. And "BSA," that refers to Bank Secrecy Act, correct?

19 A. Yes, sir.

20 Q. Okay. Any reason --

21 A. I'll agree with you.

22 Q. Fair enough.

23 Do you have any reason to dispute --

24 A. No, sir.

25 Q. -- that BSA would stand for Bank Secrecy Act?

1 A. No, sir.

2 Q. Thank you, Ranger.

3 Let's go to the bottom half of page 2. If we could ask  
4 the ranger to -- Ranger Snyder, can you read the highlighted  
5 portion.

6 A. "On 8/6/2017, the subject, using PayPal account" ending  
7 with "035, purchased AR500 body armor, bulletproof vest, BAM  
8 low-profile base frag coating black via eBay (eBay ID  
9 DEVIKELLE\_23). This purchase of body armor, bulletproof vest,  
10 is noteworthy due to media reports that the subject was  
11 wearing all black tactical gear and ballistic vest."

12 Q. As you already testified, Devin Kelley was, in fact,  
13 wearing body armor during the shooting, correct?

14 A. That's correct.

15 Q. And it was illegal for him to possess body armor in Texas?

16 A. That's correct.

17 Q. Nonetheless, according to this record, he was able to buy  
18 it and bought it online?

19 A. Correct.

20 Q. Taking a look at page 4. Sir, if you can read the  
21 highlighted portion.

22 A. "Purchases of note: 06/06/2016, \$38.61 at LA Police  
23 Gear, Inc., an online police and tactical gear retailer;  
24 5/8/2017, \$20.94 at KnifeCenter.com, an online knife retailer;  
25 12/7/2015 to 11/3/2017 at Academy Sports, locations in Selma,

1 San Antonio, and San Marcos, Texas, a seller of firearms,  
2 ammunition, and sporting goods. There were nine transactions  
3 totaling \$356.64, ranging from \$9.65 to \$107.12, with the  
4 transaction for \$107.12 occurring on 11/3/2017."

5 Q. I appreciate you reading that. Thank you, Ranger Snyder.

6 According to this suspicious activities report, Kelley  
7 purchased items from LA Police Gear, correct?

8 A. Yes, sir.

9 Q. He also purchased -- made purchases from KnifeCenter.com?

10 A. Correct.

11 Q. These are both online retailers?

12 A. Yes, sir.

13 Q. It also notes that Kelley made nine different purchases at  
14 Academy Sports between December 7th of 2015 and November 3rd,  
15 2017; is that correct?

16 A. Yes, sir.

17 Q. And these purchases range between \$9.65 and \$107.12?

18 A. Correct.

19 Q. One of those purchases occurred two days before the  
20 shooting, correct?

21 A. Yes, sir.

22 Q. That last transaction was for \$107.12?

23 A. That's correct.

24 Q. And, of course, a BSA report like this wouldn't factor in  
25 all of the transactions that occurred where the individual

1 used cash, correct?

2 A. Yes.

3 Q. Take a look at Joint Exhibit 550.

4 Are you familiar with this document, Ranger Snyder?

5 A. Yes, sir. It's a LeadsOnline database search.

6 Q. And why would Texas Rangers have occasion to run such a  
7 search?

8 A. We do in case -- to follow things that have been pawned or  
9 bought from the pawnshop, and if anything's been -- any stolen  
10 items or anything of that nature's been pawned in a local  
11 pawnshop.

12 Q. Okay. And taking a look at the highlighted section, we  
13 see a pistol, 9-millimeter semiautomatic single CPX-2,  
14 correct?

15 A. Yes, sir.

16 Q. And in your investigation, you never found a ATF 4473 form  
17 for a 9-millimeter semiautomatic pistol CPX-2, correct?

18 A. No, sir.

19 Q. And according to this document, Devin Kelley sold this to  
20 EZ Pawn in New Braunfels, Texas?

21 A. That's correct.

22 Q. Thank you.

23 If we can go to the next document, Joint Exhibit 744.  
24 Now, let's go to the second page and take a look at the  
25 synopsis.

1           Ranger Snyder, what is this document reflecting?

2       A. This is a front page or page 1 of 2 of a supplemental  
3       report created by a ranger out of our reporting system.

4       Q. Okay. And the rangers interviewed Brandon Beaty, the  
5       manager of Hill Country Truck Store; is that correct?

6       A. Yes, sir. That's correct.

7       Q. Do you recall why they interviewed Mr. Beaty? It's okay  
8       if you don't. We'll scroll down through the --

9       A. Right off the top of my head, no, sir.

10      Q. Fair enough. Then let's go to the paragraph,  
11     paragraph 8.2. Sorry. I'm going to have to ask you to read  
12     aloud again, if you don't mind, sir.

13      A. 8.2 -- the 8.2 reference is detailed in Supplement 8.

14           "During the interview, Beaty confirmed that on  
15       October 28th, 2017, Devin Kelley came into the store and  
16       purchased two 100-round drum magazines and .223/5.56 ammo.  
17       Beaty stated he had posted pictures of the magazines marketing  
18       them on Facebook, and Devin had contacted him via Facebook and  
19       inquired about the purchasing the magazines."

20      Q. Okay. So let's break that paragraph down a little bit.

21           According to Mr. Beaty, Devin Kelley bought two 100-round  
22       drum magazines on October 28th, 2017, correct?

23      A. Yes.

24      Q. That's eight days before the shooting?

25      A. Correct.

1 Q. If you recall, this is also the same day Kelley wrote two  
2 of his iCloud notes to delete all social media and destroy his  
3 old iPhone?

4 A. Correct.

5 Q. Mr. Beaty stated that he posted pictures on Facebook and  
6 that Kelley contacted him online via Facebook?

7 A. Correct.

8 Q. If we move to paragraph 8.3. Can we take a look at the  
9 highlighted portion.

10 Can you read that aloud, please, sir.

11 A. "Beaty confirmed later that same afternoon Devin called  
12 stating the magazines didn't fit and requested to return them.  
13 Devin returned the magazines and requested to order two more  
14 magazines to fit the rifle. Beaty provided me with a Post-it  
15 note that he had written himself that had cellphone number"  
16 ending in "134 and a note to call upon arrival of the  
17 magazines. I noted this telephone number was Devin Kelley's."

18 Q. So according to this paragraph, Devin Kelley returned the  
19 magazines the same day he bought them because they didn't fit  
20 his rifle?

21 A. That's correct.

22 Q. He then gave Mr. Beaty his telephone number so that he  
23 could call Kelley whenever the new magazines arrived?

24 A. Correct.

25 Q. Taking a look at the next paragraph, if we could finish

1 off this.

2 A. "Beaty stated from the time of the return on October 28,  
3 2017, until Saturday, 11/4/2017, Devin called him every day,  
4 multiple times a day checking to see if the magazine had  
5 arrived. Beaty stated Devin came into the store on Saturday,  
6 11/4/2017, to check on the magazines."

7 Q. So between October 28th and the day before the shooting,  
8 Devin Kelley called Mr. Beaty every day, multiple times a day,  
9 checking to see if the magazines had arrived; is that correct?

10 A. That's correct.

11 Q. In fact, Devin Kelley went into the store on the day  
12 before the shooting to check to see if the magazines had  
13 arrived?

14 A. That's correct.

15 Q. Would this suggest that Mr. Kelley was anxious to obtain  
16 the magazines?

17 MR. LEGRAND: Your Honor, I'm going to object. That  
18 calls for speculation.

19 THE COURT: That's overruled.

20 THE WITNESS: That's correct.

21 BY MR. STERN:

22 Q. Thank you.

23 Taking a look at Joint Exhibit 608.

24 I know I'm having you read a lot, Ranger Snyder. How are  
25 you holding up?

1 A. I'm good.

2 Q. Thank you.

3 Take a look at the synopsis, please. Can you tell me what  
4 this document -- what this document -- let's pull this down.

5 MR. STERN: Your Honor, if I can have a moment,  
6 please.

7 *(Discussion off the record)*

8 MR. STERN: So, Your Honor, there's some PII I think  
9 that's -- unredacted. If we can just take five minutes?

10 THE COURT: Why don't you push forward. Like I said,  
11 we'll redact, and I'll allow later redactions before this gets  
12 released.

13 BY MR. STERN:

14 Q. Certainly. Why don't we go right to the highlighted  
15 portion. And if you can read this to yourself.

16 Is it fair to state that this is a document that recorded  
17 all the evidence found in Devin Kelley's vehicle after he  
18 committed -- after he shot himself?

19 A. That's correct.

20 Q. Okay. Taking a look at the highlighted portion, can you  
21 read that aloud.

22 A. "Green backpack, back seat behind driver seat. Ziploc  
23 with 18 NFCR 9-millimeter Luger cartridges and oil can-type  
24 suppressor."

25 Q. Thank you.

1       With regards to the Ziploc with 18 NFCR 9-millimeter Luger  
2 cartridges, do you know what that is?

3 A. That would be -- I believe it would be like a Ziploc bag,  
4 or some kind of bag, with 18 cartridges of 9-millimeter  
5 caliber ammunition.

6 Q. Thank you.

7       And it also reads, "oil can-type suppressor," correct?

8 A. Correct.

9 Q. And, again, we previously looked at a document where Devin  
10 Kelley was commenting on a YouTube clip about how to make  
11 homemade silencers, correct?

12 A. That's correct.

13 Q. Would it be fair to suggest that this oil can-type  
14 suppressor is his attempt to make a homemade silencer?

15 A. Correct.

16 Q. Going further down, next page.

17       The next highlighted portion, "Glock magazine, 15-round  
18 capacity."

19       Did I read that correctly?

20 A. Yes, sir.

21 Q. Again, would this indicate that he had a 15-round magazine  
22 for his Glock pistol?

23 A. Correct.

24 Q. Okay. It also reads, "containing six Hornady Luger  
25 9-millimeter cartridges," one with -- "one Win 9-millimeter

1 cartridge."

2 Did I read that correctly?

3 A. Yes, sir.

4 Q. Do you know what that's in reference to?

5 A. I'm guessing six Hornady Luger 9-millimeter cartridges.

6 So there's a 15-round capacity magazine at the time that they  
7 inventoried or collected the live or unfired cartridges from  
8 it, and six Hornady Luger 9-millimeter and one Winchester  
9 9-millimeter cartridge.

10 Q. Thank you.

11 Looking further down, it reads, "Prescription pill  
12 container containing 24 pills, fill date: 10/25/2017 at two  
13 pills per day."

14 Did I read that correctly?

15 A. That's correct.

16 Q. So Devin Kelley had a prescription pill container in the  
17 car?

18 A. That is correct.

19 Q. Did the Texas Rangers come to learn, through the course of  
20 its investigation, that Devin Kelley had recently been  
21 prescribed clonazepam?

22 A. I believe it was documented. Yes, sir.

23 Q. Thank you.

24 The next highlighted portion, "Letter from New Braunfels  
25 counseling center - LPC Candace Marlowe" --

1 Did I read that correctly?

2 A. That's correct.

3 Q. -- "dated 7/20/2017, two pages of client schedule."

4 A. Correct.

5 Q. So in his car at the time of the shooting, Devin Kelley  
6 had a prescription pill container and a letter from a  
7 counseling center; is that correct?

8 A. Yes, sir.

9 Q. I'd like to shift focus and talk about some of the  
10 interviews conducted by the FBI, if that's okay with you,  
11 Ranger Snyder.

12 A. Yes, sir.

13 Q. Okay. The FBI helped with this investigation, correct?

14 A. Yes, sir.

15 Q. They conducted several interviews of associates of Devin  
16 Kelley?

17 A. That's correct.

18 Q. I'd like to discuss three of those interviews with you, if  
19 that's okay.

20 A. Sure.

21 Q. Thank you.

22 Taking a look at Joint Exhibit 510, this is a report of an  
23 interview that the FBI conducted of Jessica Lee Edwards,  
24 correct?

25 A. Correct.

1 Q. It reads in part, "Edwards was Devin Patrick Kelley's  
2 staff sergeant in the United States Air Force around 2010-2011  
3 at Holloman Air Force Base in New Mexico."

4 Did I read that correctly?

5 A. Yes, sir.

6 Q. And I will represent to you that the parties have  
7 stipulated that Ms. Edwards was no longer an Air Force  
8 employee by December of 2012. Okay?

9 A. Okay.

10 Q. Okay. So at the end of this paragraph -- I want to  
11 continue the next highlighted portion -- it reads, "A couple  
12 of years later, Kelley contacted Edwards via Facebook."

13 Did I read that correctly?

14 A. Yes, sir.

15 Q. So if it's a couple years after 2010-2011, is it fair to  
16 state that she was no longer an Air Force employee?

17 A. Correct.

18 Q. I want you to read the next highlighted portion, please.  
19 Can you read it aloud, sir.

20 A. "Kelley also obsessed with church shootings and guns.  
21 Regarding the church shooting in South Carolina, Kelley told  
22 Edwards, 'I wish I had the nerve to do it.' Kelley also sent  
23 Edwards pictures of multiple guns he was building,  
24 specifically an AR-15-style rifle."

25 Q. So according to this interview, a couple years after

1 Ms. Edwards leaves the Air Force, a couple years after Devin  
2 Kelley leaves the Air Force, he contacts Ms. Edwards and says  
3 he's obsessed with church shootings and guns, correct?

4 A. Yes, sir.

5 Q. In fact, "Regarding the church shooting in South Carolina,  
6 Kelley told Edwards, 'I wish I had the nerve to do it.'"

7 A. Correct.

8 Q. Do you know when the church shooting in South Carolina  
9 occurred?

10 A. I can't tell you the day right now, sir.

11 Q. Okay. And, finally, it also says "Kelley" -- if we can  
12 keep that up, please. Thank you. I just want to read the  
13 last sentence again.

14 "Kelley also sent Edwards pictures of multiple guns he was  
15 building, specifically an AR-15-style rifle."

16 Did I read that correctly?

17 A. Yes, sir.

18 Q. So according to Ms. Edwards, Devin Kelley contacted her  
19 and showed her pictures of multiple guns he was building?

20 A. Correct.

21 Q. Thank you.

22 Next paragraph --

23 THE COURT: Do we have a year for this discussion?

24 MR. STERN: It says, "A couple years later, after  
25 Mr. Kelley was released from the Air Force."

1       The parties have already stipulated that Ms. Edwards was  
2 no longer an employee after December of 2012, and, certainly,  
3 by the fact that they're talking about the church shooting in  
4 South Carolina, which I'll represent occurred in 2015, it  
5 would be sometime thereafter.

6           THE COURT: Thank you.

7           MR. STERN: Thank you.

8 BY MR. STERN:

9 Q. The next paragraph. You can read that portion, sir.

10 A. "Edwards told Kelley to get help, once she realized he was  
11 completely obsessed with mass shootings. Edwards then deleted  
12 Kelley as a friend on Facebook. Edwards said it was possible  
13 that Kelley made a new Facebook account and attempted to add  
14 her back as a friend."

15 Q. So, again, according to Ms. Edwards, Kelley was completely  
16 obsessed with mass shootings, correct?

17 A. Yes.

18 Q. In fact, she tried to block him on Facebook, correct?

19 A. Correct.

20 Q. And she was concerned that he might have made a new  
21 Facebook account to continue their relationship?

22 A. Correct.

23 Q. So she tried to block him. Yet, she thinks he still tried  
24 to pursue their relationship?

25 A. Yes, sir.

1 Q. Thank you.

2 Let's go to the next interview, Joint Exhibit 513. Take a  
3 look -- this is an FBI interview of Joey Mizell; is that  
4 correct? Sorry?

5 A. There's a delay here. But, yes, that's correct.

6 Q. I know we're all -- it's getting late in the day, so I'm  
7 trying to rush through. But please take your time, of course.

8 A. Yes, sir.

9 Q. Thank you.

10 This interview occurred November 6th, 2017, one day after  
11 the shooting?

12 A. Correct.

13 Q. Okay. Let's take a look at the second paragraph. It  
14 says, "Mr. Mizell told the FBI..."

15 Ranger Snyder, can I ask you to read this -- the second --  
16 the first page of this interview. And I'd like to just ask  
17 you a few questions about it, please.

18 A. Starting from the top or --

19 Q. Just to yourself, the first page, please.

20 A. Okay.

21 (*Witness reading*)

22 THE COURT: Go ahead and scroll up and get rid of the  
23 phone numbers.

24 Are you ready for a question, Ranger?

25 THE WITNESS: Yes, sir.

1 MR. STERN: Thank you, sir.

2 BY MR. STERN:

3 Q. So according to Mr. Mizell, he told the FBI that he had  
4 known Kelley since middle school or the eighth grade, correct?

5 A. That's correct.

6 Q. And that he thought Kelley was an ADHD-type of guy?

7 A. Yes, sir.

8 Q. He always wanted to be the center of attention, but he was  
9 very unlikable?

10 A. Yes, sir.

11 Q. And that people had issues with Kelley's personality, and  
12 he was the arrogant type?

13 A. Correct.

14 Q. It also reads that Mr. Mizell stated Kelley had called him  
15 after Kelley got out of the -- got out of the military, that  
16 the last several weeks was when they were in touch the most,  
17 either by text or phonecall?

18 A. Correct.

19 Q. "Mr. Mizell stated that Kelley never had any guns growing  
20 up, but maybe after the military, he got involved with guns  
21 more and hunted"?

22 A. Correct.

23 MR. STERN: Can you highlight the portion that talks  
24 about his secret.

1 BY MR. STERN:

2 Q. Mr. Mizell -- I'm sorry. The interview notes read in  
3 part, "Mizell felt Kelley had dark secrets but never really  
4 expressed them to Mizell," correct?

5 A. Correct.

6 Q. All right. The next highlighted portion.

7 We already talked about Mr. Mizell's belief that Devin  
8 Kelley got more interested in firearms after he left the  
9 military?

10 A. Yes, sir.

11 Q. Okay. Again, it reads, "Mizell told Kelley" -- I'm sorry.  
12 "Mizell stated Kelley was trying to get Mizell mad for telling  
13 him about animals because Kelley knew Mizell was very  
14 religious."

15 A. Correct.

16 Q. Did I read that correctly?

17 So he was concerned that Devin Kelley was trying to get  
18 him angry or get him mad because he was very religious?

19 A. Correct.

20 Q. Okay. Take a look at the next highlighted portion. Can  
21 you read that aloud, please, sir.

22 A. "Mizell stated he warned another friend, Tony Last Name  
23 Unknown about Kelley's behavior recently after Mizell had a  
24 religious conversation with Kelley. Kelley told Mizell that  
25 the world was horrible, and Kelley was upset about bringing

1 his kid into the world."

2 Q. So during this religious conversation Mizell and Kelley  
3 had, Kelley told him that the world was horrible, and he was  
4 upset about bringing his kids into the world, correct?

5 A. Yes, sir.

6 Q. Is that a yes? Sorry.

7 A. Yes, sir.

8 Q. Thank you.

9 And then, finally, the last highlighted portion.

10 Again, based on this interview, there was a YouTube clip  
11 of Kelley doing a canister of drugs called whippets?

12 A. Correct.

13 Q. And Mizell told -- stated that Kelley knew that he was  
14 going to go to hell?

15 A. Correct.

16 Q. I want to turn your attention to one more FBI interview.

17 THE COURT: So if you finished up with that person,  
18 this is probably a good breaking point.

19 It appears to me you have much more to go with this  
20 witness.

21 MR. STERN: Much more to go, Your Honor.

22 THE COURT: Yeah. And will there be redirect?

23 MR. LEGRAND: Yes, sir. Yes, Your Honor.

24 THE COURT: Yeah. So it's past 5:30 now. Let's go  
25 ahead and take a stop. We'll resume tomorrow morning at 9:00

1 with this witness.

2 I know it's late. But if the two of y'all could confer  
3 about what remaining exhibits we need to admit, I'd like to be  
4 able to admit any unobjected-to plaintiffs' and government  
5 witness exhibits first thing in the morning, if possible. So  
6 let's try to show up just slightly before 9:00.

7 Anything else we need to take up before I leave?

8 MR. ALSAFFAR: None from plaintiffs, Your Honor.

9 MR. STERN: None for defendants.

10 THE COURT: We're adjourned until tomorrow morning.

11 \* \* \*

12 *(Overnight recess)*

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2 I certify that the foregoing is a correct transcript from  
3 the record of proceedings in the above-entitled matter.

4

5 Date: 4/7/2021 /s/ Gigi Simcox  
6 United States Court Reporter  
7 655 East Cesar E. Chavez Blvd., Rm. G-65  
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8 Date: 4/7/2021 /s/ Chris Poage  
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